



Sen. James F. Clayborne Jr.

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09400SB1700sam001

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1 AMENDMENT TO SENATE BILL 1700

2 AMENDMENT NO. _____. Amend Senate Bill 1700 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Public Utilities Act is amended by changing
5 Sections 13-100, 13-101, 13-102, 13-103, 13-202.5, 13-203,
6 13-209, 13-216, 13-301, 13-401, 13-403, 13-406, 13-407,
7 13-501, 13-502, 13-504, 13-505, 13-506, 13-506.1, 13-509,
8 13-514, 13-515, 13-517, 13-601, 13-712, 13-801, and 13-1200 and
9 by adding Sections 13-100.5, 13-203.1, 13-203.2, 13-203.3,
10 13-203.4, 13-203.5, 13-203.6, 13-204.5, 13-400, 13-518.1, and
11 13-804 as follows:

12 (220 ILCS 5/13-100) (from Ch. 111 2/3, par. 13-100)

13 (Section scheduled to be repealed on July 1, 2005)

14 Sec. 13-100. This Article shall be known and may be cited
15 as the Telecommunications Reform Act of 2005 ~~Universal~~
16 ~~Telephone Service Protection Law of 1985.~~

17 (Source: P.A. 84-1063.)

18 (220 ILCS 5/13-100.5 new)

19 Sec. 13-100.5. References to former law. References in
20 this Act or any other law, rule, regulation, or other document
21 to the Universal Telephone Service Protection Law of 1985 are
22 references to the Telecommunications Reform Act of 2005.

1 (220 ILCS 5/13-101) (from Ch. 111 2/3, par. 13-101)

2 (Section scheduled to be repealed on July 1, 2005)

3 Sec. 13-101. Application of Act to telecommunications
4 rates and services. Except to the extent modified or
5 supplemented by the specific provisions of this Article, the
6 Sections of this Act pertaining to public utilities, public
7 utility rates and services, and the regulation thereof, are
8 fully and equally applicable to noncompetitive
9 telecommunications rates and services, and the regulation
10 thereof, except where the context clearly renders such
11 provisions inapplicable. Except to the extent modified or
12 supplemented by the specific provisions of this Article,
13 Articles I through V, Sections 8-305, 8-502, 8-301, 8-505,
14 8-507, 9-221, 9-222, 9-222.1, 9-222.2, ~~9-250,~~ and 9-252.1, and
15 Article ~~Articles X and XI~~ of this Act are fully and equally
16 applicable to competitive telecommunications ~~rates and~~
17 ~~services, and the regulation thereof; in addition, as to~~
18 ~~competitive telecommunications rates and services, and the~~
19 ~~regulation thereof, all rules and regulations made by a~~
20 ~~telecommunications carrier affecting or pertaining to its~~
21 ~~charges or service to the public shall be just and reasonable,~~
22 provided that nothing in this Section shall be construed to
23 prevent a telecommunications carrier from accepting payment
24 electronically or by the use of a customer-preferred
25 financially accredited credit or debit methodology. As of the
26 effective date of this amendatory Act of the 92nd General
27 Assembly, Sections 4-202, 4-203, and 5-202 of this Act shall
28 cease to apply to telecommunications rates and services.

29 (Source: P.A. 92-22, eff. 6-30-01.)

30 (220 ILCS 5/13-102) (from Ch. 111 2/3, par. 13-102)

31 (Section scheduled to be repealed on July 1, 2005)

32 Sec. 13-102. Findings. With respect to telecommunications
33 services, as herein defined, and the communications

1 environment that now exists in the State of Illinois, the
2 General Assembly finds that:

3 (a) universally available and widely affordable
4 telecommunications services are essential to the health,
5 welfare and prosperity of all Illinois citizens;

6 (b) federal regulatory and judicial rulings in the 1980s
7 caused a restructuring of the telecommunications industry and
8 opened some aspects of the industry to competitive entry,
9 thereby necessitating revision of State telecommunications
10 regulatory policies and practices;

11 (c) revisions in telecommunications regulatory policies
12 and practices in Illinois beginning in the mid-1980s brought
13 the benefits of competition to consumers in many
14 telecommunications markets, but not in local exchange
15 telecommunications service markets;

16 (d) the federal Telecommunications Act of 1996 established
17 the goal of opening all telecommunications service markets to
18 competition and accords to the states certain responsibilities
19 ~~the responsibility~~ to establish and enforce policies necessary
20 to attain that goal;

21 (e) it is in the ~~immediate~~ interest of the People of the
22 State of Illinois for the State to exercise its rights within
23 the new framework of federal telecommunications policy to
24 ensure that the economic benefits of competition in all
25 telecommunications service markets are realized as effectively
26 as possible;

27 (e-5) since the passage of the federal Telecommunications
28 Act of 1996, national telecommunications policy has reaffirmed
29 the increased benefits of a uniform pro-competitive,
30 de-regulatory framework that limits unbundling obligations and
31 provides incentives for both incumbent carriers and new
32 entrants to accelerate rapidly private sector investment in
33 advanced telecommunications and information technologies in a
34 manner that best allows for innovation and sustainable

1 facilities-based competition;

2 (e-10) significant changes in the communications industry,
3 both among incumbent telecommunications providers and by the
4 entry of new entrants, have brought the benefits of competition
5 to consumers and businesses in Illinois;

6 (e-15) advancements in and the convergence of technologies
7 that provide voice, video, and data transmission, including:
8 landline, wireless, cable, satellite, and Internet
9 transmissions involving Internet Protocol enabled services
10 including voice, video and data; are substantially increasing
11 consumer choice, reinventing the communications industry and
12 marketplace with unprecedented speed, and making available
13 highly competitive products and services and new methods of
14 delivering all forms of communications services;

15 (e-20) there is now significant communications competition
16 in Illinois and a continuing convergence of multiple
17 technologies, including facilities-based telecommunications
18 services, cable telephony services, wireless services,
19 advanced information services, high speed broadband transport
20 services, and Internet Protocol enabled voice, video and data
21 services;

22 (f) the continued competitive offering of all
23 telecommunications services will increase innovation and
24 efficiency in the provision of telecommunications services and
25 ~~may~~ lead to reduced prices for consumers, a wider choice of
26 services, increased investment in communications
27 infrastructure, the creation of new jobs, and the attraction of
28 new businesses to Illinois; and

29 (g) protection of the public interest requires changes in
30 the regulation of telecommunications carriers and services
31 consistent with the competitive environment and convergence of
32 technologies to ensure, to the maximum feasible extent, the
33 ~~reasonable and timely development of effective competition in~~
34 ~~all telecommunications service markets.~~

1 (Source: P.A. 90-185, eff. 7-23-97.)

2 (220 ILCS 5/13-103) (from Ch. 111 2/3, par. 13-103)

3 (Section scheduled to be repealed on July 1, 2005)

4 Sec. 13-103. Policy. Consistent with its findings, the
5 General Assembly declares that it is the policy of the State of
6 Illinois that:

7 (a) telecommunications services should be available to all
8 Illinois citizens at just, reasonable, and affordable rates and
9 that such services should be provided as widely and
10 economically as possible in sufficient variety, quality,
11 quantity and reliability to satisfy the public interest;

12 (b) consistent with the protection of consumers of
13 telecommunications services and the furtherance of other
14 public interest goals, competition in all telecommunications
15 service markets exists and should be ~~pursued as~~ a substitute
16 for regulation in determining the variety, quality and price of
17 telecommunications services and that the economic burdens of
18 regulation should be reduced to the extent possible consistent
19 with the furtherance of market competition and protection of
20 the public interest;

21 (b-5) given the global nature of the telecommunications
22 marketplace, it is critical that the State of Illinois
23 establish and exercise its telecommunications policy within
24 the framework of federal telecommunications policy to ensure
25 that the economic benefits of competition in all communications
26 markets are maintained and enhanced;

27 (c) all necessary and appropriate modifications to State
28 regulation of telecommunications carriers and services should
29 be implemented without unnecessary disruption to the
30 telecommunications infrastructure system or to consumers of
31 telecommunications services and that it is necessary and
32 appropriate to establish rules to encourage and ensure orderly
33 transitions in the development of markets for all

1 telecommunications services;

2 (d) the consumers of telecommunications services and
3 facilities provided by persons or companies subject to
4 regulation pursuant to this Act and Article should be required
5 to pay only reasonable and non-discriminatory rates or charges
6 and that in no case should rates or charges for non-competitive
7 telecommunications services include any portion of the cost of
8 providing competitive telecommunications services, as defined
9 in Section 13-209, or the cost of any nonregulated activities;

10 (d-5) consumers of telecommunications services will
11 benefit from marketplace pricing flexibility, which is
12 designed to provide consumers with more services, more choice
13 and new innovations at lower overall prices and increased
14 value;

15 (e) the regulatory policies and procedures provided in this
16 Article are established in recognition of the changing nature
17 of the communications ~~telecommunications~~ industry and
18 therefore telecommunications should be subject to systematic
19 legislative review to ensure that the public benefits intended
20 to result from such policies and procedures are fully realized;
21 and

22 (f) development of and prudent investment in advanced
23 telecommunications services and networks that foster economic
24 development of the State should be encouraged through the
25 implementation and enforcement of policies that promote
26 effective and sustained competition in all telecommunications
27 service markets.

28 (Source: P.A. 90-185, eff. 7-23-97.)

29 (220 ILCS 5/13-202.5)

30 (Section scheduled to be repealed on July 1, 2005)

31 Sec. 13-202.5. Incumbent local exchange carrier.
32 "Incumbent local exchange carrier" means, unless otherwise
33 defined by federal law or Federal Communications Commission

1 regulation, with respect to an area, the telecommunications
2 carrier that provided noncompetitive local exchange
3 telecommunications service in that area on February 8, 1996,
4 and on that date was deemed a member of the exchange carrier
5 association pursuant to 47 C.F.R. 69.601(b), and includes its
6 successors or, ~~assigns, and affiliates.~~

7 (Source: P.A. 92-22, eff. 6-30-01.)

8 (220 ILCS 5/13-203) (from Ch. 111 2/3, par. 13-203)

9 (Section scheduled to be repealed on July 1, 2005)

10 Sec. 13-203. Telecommunications service.

11 "Telecommunications service" means, unless otherwise
12 defined by federal law or Federal Communications Commission
13 regulation, the offering of telecommunications for a fee
14 directly to the public, or to such classes of users as to be
15 effectively available directly to the public, regardless of the
16 facilities used. ~~the provision or offering for rent, sale or~~
17 ~~lease, or in exchange for other value received, of the~~
18 ~~transmittal of information, by means of electromagnetic,~~
19 ~~including light, transmission with or without benefit of any~~
20 ~~closed transmission medium, including all instrumentalities,~~
21 ~~facilities, apparatus, and services (including the collection,~~
22 ~~storage, forwarding, switching, and delivery of such~~
23 ~~information) used to provide such transmission and also~~
24 ~~includes access and interconnection arrangements and services.~~

25 "Telecommunications service" does not include, however:

26 ~~(a) the rent, sale, or lease, or exchange for other value~~
27 ~~received, of customer premises equipment except for customer~~
28 ~~premises equipment owned or provided by a telecommunications~~
29 ~~carrier and used for answering 911 calls, and except for~~
30 ~~customer premises equipment provided under Section 13-703;~~
31 ~~(b) telephone or telecommunications answering services, paging~~
32 ~~services, and physical pickup and delivery incidental to the~~
33 ~~provision of information transmitted through electromagnetic,~~

1 ~~including light, transmission;~~ (e) community antenna
2 television service which is operated to perform for hire the
3 service of receiving and distributing video and audio program
4 signals by wire, cable or other means to members of the public
5 who subscribe to such service, to the extent that such service
6 is utilized solely for the one-way distribution of such
7 entertainment services with no more than incidental subscriber
8 interaction required for the selection of such entertainment
9 service.

10 ~~The Commission may, by rulemaking, exclude (1) private line~~
11 ~~service which is not directly or indirectly used for the~~
12 ~~origination or termination of switched telecommunications~~
13 ~~service, (2) cellular radio service, (3) high-speed~~
14 ~~point to point data transmission at or above 9.6 kilobits, or~~
15 ~~(4) the provision of telecommunications service by a company or~~
16 ~~person otherwise subject to Section 13-202 (c) to a~~
17 ~~telecommunications carrier, which is incidental to the~~
18 ~~provision of service subject to Section 13-202 (c), from active~~
19 ~~regulatory oversight to the extent it finds, after notice,~~
20 ~~hearing and comment that such exclusion is consistent with the~~
21 ~~public interest and the purposes and policies of this Article.~~
22 ~~To the extent that the Commission has excluded cellular radio~~
23 ~~service from active regulatory oversight for any provider of~~
24 ~~cellular radio service in this State pursuant to this Section,~~
25 ~~the Commission shall exclude all other providers of cellular~~
26 ~~radio service in the State from active regulatory oversight~~
27 ~~without an additional rulemaking proceeding where there are 2~~
28 ~~or more certified providers of cellular radio service in a~~
29 ~~geographic area.~~

30 (Source: P.A. 90-185, eff. 7-23-97.)

31 (220 ILCS 5/13-203.1 new)

32 Sec. 13-203.1. "Telecommunications" means, unless
33 otherwise defined by federal law or Federal Communications

1 Commission regulation, the transmission, between or among
2 points specified by the user, of information of the user's
3 choosing, without change in the form or content of the
4 information as sent and received.

5 (220 ILCS 5/13-203.2 new)

6 Sec. 13-203.2. "Advanced service" means, unless otherwise
7 defined by federal law or Federal Communications Commission
8 regulation, high speed, switched, broadband, wireline
9 telecommunications capability that enables end users to
10 originate and receive high-quality voice, data, graphics or
11 video telecommunications using any technology.

12 (220 ILCS 5/13-203.3 new)

13 Sec. 13-203.3. "Broadband service" means, unless otherwise
14 defined by federal law or Federal Communications Commission
15 regulation, lines (or wireless channels) that terminate at an
16 end user location, connect the end user to the Internet, and
17 carry information at the end user location at information
18 transfer rates exceeding 200 kilobits per second ("kbps") in at
19 least one direction.

20 (220 ILCS 5/13-203.4 new)

21 Sec. 13-203.4. "Information service" means, unless
22 otherwise defined by federal law or Federal Communications
23 Commission regulation, the offering of a capability for
24 generating, acquiring, storing, transforming, processing,
25 retrieving, utilizing, or making available information via
26 telecommunications, and includes electronic publishing, but
27 does not include any use of any such capability for the
28 management, control, or operation of a telecommunications
29 system or the management of a telecommunications service.

30 (220 ILCS 5/13-203.5 new)

1 Sec. 13-203.5. "Internet protocol ("IP") enabled service"
2 means, unless otherwise defined by federal law or Federal
3 Communications Commission regulation, services and
4 applications relying on the Internet Protocol family,
5 including the digital communications capabilities of
6 increasingly higher speeds, which use a number of transmission
7 network technologies, and which generally have in common the
8 use of the Internet protocol.

9 (220 ILCS 5/13-203.6 new)

10 Sec. 13-203.6. "Customer premises equipment" means, unless
11 otherwise defined by federal law or Federal Communications
12 Commission regulation, equipment employed on the premises of a
13 person (other than a carrier) to originate, route, or terminate
14 telecommunications.

15 (220 ILCS 5/13-204.5 new)

16 Sec. 13-204.5. "Intrastate switched access service" means
17 access to the switched network of a telecommunications carrier
18 for the purpose of originating or terminating communications
19 between points within the State of Illinois.

20 (220 ILCS 5/13-209) (from Ch. 111 2/3, par. 13-209)

21 (Section scheduled to be repealed on July 1, 2005)

22 Sec. 13-209. "Competitive Telecommunications Service"
23 means (i) a telecommunications service, its functional
24 equivalent or a substitute service, which, for some
25 identifiable class or group of customers in an exchange, group
26 of exchanges, or some other clearly defined geographical area,
27 is reasonably available from more than one provider, whether or
28 not such provider is a telecommunications carrier subject to
29 regulation under this Act or (ii) any other telecommunications
30 service classified as competitive under this Article. A
31 telecommunications service may be competitive for the entire

1 state, some geographical area therein, including an exchange or
2 set of exchanges, or for a specific customer or class or group
3 of customers, but only to the extent consistent with this
4 definition.

5 (Source: P.A. 84-1063.)

6 (220 ILCS 5/13-216)

7 (Section scheduled to be repealed on July 1, 2005)

8 Sec. 13-216. Network element. "Network element" means,
9 unless otherwise defined by federal law or Federal
10 Communications Commission regulation, a facility or equipment
11 used in the provision of a telecommunications service. The term
12 also includes features, functions, and capabilities that are
13 provided by means of the facility or equipment, including, ~~but~~
14 ~~not limited to,~~ subscriber numbers, databases, signaling
15 systems, and information sufficient for billing and collection
16 or used in the transmission, routing, or other provision of a
17 telecommunications service.

18 (Source: P.A. 92-22, eff. 6-30-01.)

19 (220 ILCS 5/13-301) (from Ch. 111 2/3, par. 13-301)

20 (Section scheduled to be repealed on July 1, 2005)

21 Sec. 13-301. Consistent with the findings and policy
22 established in paragraph (a) of Section 13-102 and paragraph
23 (a) of Section 13-103, and in order to ensure the attainment of
24 such policies, the Commission shall:

25 (a) participate in all federal programs intended to
26 preserve or extend universal telecommunications service,
27 unless such programs would place cost burdens on Illinois
28 customers of telecommunications services in excess of the
29 benefits they would receive through participation, provided,
30 however, the Commission shall not approve or permit the
31 imposition of any surcharge or other fee designed to subsidize
32 or provide a waiver for subscriber line charges; and shall

1 report on such programs together with an assessment of their
2 adequacy and the advisability of participating therein in its
3 annual report to the General Assembly, or more often as
4 necessary;

5 (b) establish a program to monitor the level of
6 telecommunications subscriber connection within each exchange
7 in Illinois, and shall report the results of such monitoring
8 and any actions it has taken or recommends be taken to maintain
9 and increase such levels in its annual report to the General
10 Assembly, or more often if necessary;

11 (c) (Blank). ~~order all telecommunications carriers~~
12 ~~offering or providing local exchange telecommunications~~
13 ~~service to propose low cost or budget service tariffs and any~~
14 ~~other rate design or pricing mechanisms designed to facilitate~~
15 ~~customer access to such telecommunications service, and shall~~
16 ~~after notice and hearing, implement any such proposals which it~~
17 ~~finds likely to achieve such purpose;~~

18 (d) investigate the necessity of and, if appropriate,
19 establish a universal service support fund from which local
20 exchange telecommunications carriers who pursuant to the
21 Twenty-Seventh Interim Order of the Commission in Docket No.
22 83-0142 or the orders of the Commission in Docket No. 97-0621
23 and Docket No. 98-0679 received funding and whose economic
24 costs of providing services for which universal service support
25 may be made available exceed the affordable rate established by
26 the Commission for such services may be eligible to receive
27 support, less any federal universal service support received
28 for the same or similar costs of providing the supported
29 services; provided, however, that if a universal service
30 support fund is established, the Commission shall require that
31 all costs of the fund be recovered from all ~~local exchange and~~
32 ~~interexchange~~ telecommunications carriers ~~certificated in~~
33 ~~Illinois~~ on a competitively neutral and nondiscriminatory
34 basis. In establishing any such universal service support fund,

1 the Commission shall, in addition to the determination of costs
2 for supported services, consider and make findings pursuant to
3 paragraphs (1), (2), and (4) of item (e) of this Section. Proxy
4 cost, as determined by the Commission, may be used for this
5 purpose. In determining cost recovery for any universal service
6 support fund, the Commission shall not permit recovery of such
7 costs from another certificated carrier for any service
8 purchased and used solely as an input to a service provided to
9 such certificated carrier's retail customers; and

10 (e) investigate the necessity of and, if appropriate,
11 establish a universal service support fund in addition to any
12 fund that may be established pursuant to item (d) of this
13 Section; provided, however, that if a telecommunications
14 carrier receives universal service support pursuant to item (d)
15 of this Section, that telecommunications carrier shall not
16 receive universal service support pursuant to this item.
17 Recipients of any universal service support funding created by
18 this item shall be "eligible" telecommunications carriers, as
19 designated by the Commission in accordance with 47 U.S.C.
20 214(e)(2). Eligible telecommunications carriers providing
21 local exchange telecommunications service may be eligible to
22 receive support for such services, less any federal universal
23 service support received for the same or similar costs of
24 providing the supported services. If a fund is established, the
25 Commission shall require that the costs of such fund be
26 recovered from all telecommunications carriers, ~~with the~~
27 ~~exception of wireless carriers who are providers of two way~~
28 ~~cellular telecommunications service and who have not been~~
29 ~~designated as eligible telecommunications carriers,~~ on a
30 competitively neutral and non-discriminatory basis. In any
31 order creating a fund pursuant to this item, the Commission,
32 after notice and hearing, shall:

33 (1) Define the group of services to be declared
34 "supported telecommunications services" that constitute

1 "universal service". This group of services shall, at a
2 minimum, include those services as defined by the Federal
3 Communications Commission and as from time to time amended.
4 In addition, the Commission shall consider the range of
5 services currently offered by telecommunications carriers
6 offering local exchange telecommunications service, the
7 existing rate structures for the supported
8 telecommunications services, and the telecommunications
9 needs of Illinois consumers in determining the supported
10 telecommunications services. The Commission shall, from
11 time to time or upon request, review and, if appropriate,
12 revise the group of Illinois supported telecommunications
13 services and the terms of the fund to reflect changes or
14 enhancements in telecommunications needs, technologies,
15 and available services.

16 (2) Identify all implicit subsidies contained in rates
17 or charges of incumbent local exchange carriers, including
18 all subsidies in interexchange access charges, and
19 determine how such subsidies can be made explicit by the
20 creation of the fund.

21 (3) Identify the incumbent local exchange carriers'
22 economic costs of providing the supported
23 telecommunications services.

24 (4) Establish an affordable price for the supported
25 telecommunications services for the respective incumbent
26 local exchange carrier. The affordable price shall be no
27 less than the rates in effect at the time the Commission
28 creates a fund pursuant to this item. The Commission may
29 establish and utilize indices or models for updating the
30 affordable price for supported telecommunications
31 services.

32 (5) Identify the telecommunications carriers from whom
33 the costs of the fund shall be recovered and the mechanism
34 to be used to determine and establish a competitively

1 neutral and non-discriminatory funding basis. From time to
2 time, or upon request, the Commission shall consider
3 whether, based upon changes in technology or other factors,
4 additional telecommunications providers should contribute
5 to the fund. The Commission shall establish the basis upon
6 which telecommunications carriers contributing to the fund
7 shall recover contributions on a competitively neutral and
8 non-discriminatory basis. In determining cost recovery for
9 any universal support fund, the Commission shall not permit
10 recovery of such costs from another certificated carrier
11 for any service purchased and used solely as an input to a
12 service provided to such certificated carriers' retail
13 customers.

14 (6) Approve a plan for the administration and operation
15 of the fund by a neutral third party consistent with the
16 requirements of this item.

17 No fund shall be created pursuant to this item until
18 existing implicit subsidies, including, but not limited to,
19 those subsidies contained in interexchange access charges,
20 have been identified and eliminated through revisions to rates
21 or charges. Prior to May 1, 2000, such revisions to rates or
22 charges to eliminate implicit subsidies shall occur
23 contemporaneously with any funding established pursuant to
24 this item. However, if the Commission does not establish a
25 universal service support fund by May 1, 2000, the Commission
26 shall not be prevented from entering an order or taking other
27 actions to reduce or eliminate existing subsidies as well as
28 considering the effect of such reduction or elimination on
29 local exchange carriers.

30 Any telecommunications carrier providing local exchange
31 telecommunications service which offers to its local exchange
32 customers a choice of two or more local exchange
33 telecommunications service offerings to residential end users
34 shall provide annually to its residential end users, or post on

1 ~~its website, a list of its local exchange telecommunications~~
2 ~~service offerings available to its residential end users, to~~
3 ~~any such customer requesting it, once a year without charge, a~~
4 ~~report describing which local exchange telecommunications~~
5 ~~service offering would result in the lowest bill for such~~
6 ~~customer's local exchange service, based on such customer's~~
7 ~~calling pattern and usage for the previous 6 months. At least~~
8 ~~once a year, each such carrier shall provide a notice to each~~
9 ~~of its local exchange telecommunications service customers~~
10 ~~describing the availability of this report and the specific~~
11 ~~procedures by which customers may receive it. Such report shall~~
12 ~~only be available to current and future customers who have~~
13 ~~received at least 6 months of continuous local exchange service~~
14 ~~from such carrier.~~

15 (Source: P.A. 91-636, eff. 8-20-99.)

16 (220 ILCS 5/13-400 new)

17 Sec. 13-400. The Commission shall not exercise
18 jurisdiction over:

19 (1) advanced services, as defined in Section 13-203.2;

20 (2) broadband service, as defined in Section 13-203.3;

21 (3) any service not commercially available on the
22 effective date of this amendatory Act of the 94th General
23 Assembly;

24 (4) information services, as defined in Section
25 13-203.4;

26 (5) Internet protocol ("IP") enabled services, as
27 defined in Section 13-203.5; and

28 (6) customer premises equipment, as defined in Section
29 13-203.6.

30 (220 ILCS 5/13-401) (from Ch. 111 2/3, par. 13-401)

31 (Section scheduled to be repealed on July 1, 2005)

32 Sec. 13-401. Certificate of Service Authority.

1 (a) No telecommunications carrier not possessing a
2 certificate of public convenience and necessity or certificate
3 of authority from the Commission at the time this Article goes
4 into effect shall transact any business in this State until it
5 shall have obtained a certificate of service authority from the
6 Commission pursuant to the provisions of this Article.

7 No telecommunications carrier offering or providing, or
8 seeking to offer or provide, any interexchange
9 telecommunications service shall do so until it has applied for
10 and received a Certificate of Interexchange Service Authority
11 pursuant to the provisions of Section 13-403. No
12 telecommunications carrier offering or providing, or seeking
13 to offer or provide, any local exchange telecommunications
14 service shall do so until it has applied for and received a
15 Certificate of Exchange Service Authority pursuant to the
16 provisions of Section 13-405.

17 Notwithstanding Sections 13-403, 13-404, and 13-405, the
18 Commission shall approve a cellular radio application for a
19 Certificate of Service Authority without a hearing upon a
20 showing by the cellular applicant that the Federal
21 Communications Commission has issued to it a construction
22 permit or an operating license to construct or operate a
23 cellular radio system in the area as defined by the Federal
24 Communications Commission, or portion of the area, for which
25 the carrier seeks a Certificate of Service Authority.

26 No Certificate of Service Authority issued by the
27 Commission shall be construed as granting a monopoly or
28 exclusive privilege, immunity or franchise. The issuance of a
29 Certificate of Service Authority to any telecommunications
30 carrier shall not preclude the Commission from issuing
31 additional Certificates of Service Authority to other
32 telecommunications carriers providing the same or equivalent
33 service or serving the same geographical area or customers as
34 any previously certified carrier, ~~except to the extent~~

1 ~~otherwise provided by Sections 13-403 and 13-405.~~

2 Any certificate of public convenience and necessity
3 granted by the Commission to a telecommunications carrier prior
4 to the effective date of this Article shall remain in full
5 force and effect, and such carriers need not apply for a
6 Certificate of Service Authority in order to continue offering
7 or providing service to the extent authorized in such
8 certificate of public convenience and necessity. Any such
9 carrier, however, prior to substantially altering the nature or
10 scope of services provided under a certificate of public
11 convenience and necessity, or adding or expanding services
12 beyond the authority contained in such certificate, must apply
13 for a Certificate of Service Authority for such alterations or
14 additions pursuant to the provisions of this Article.

15 The Commission shall review and modify the terms of any
16 certificate of public convenience and necessity issued to a
17 telecommunications carrier prior to the effective date of this
18 Article in order to ensure its conformity with the requirements
19 and policies of this Article. Any Certificate of Service
20 Authority may be altered or modified by the Commission, after
21 notice and hearing, upon its own motion or upon application of
22 the person or company affected. Unless exercised within a
23 period of two years from the issuance thereof, authority
24 conferred by a Certificate of Service Authority shall be null
25 and void.

26 (b) The Commission may issue a temporary Certificate which
27 shall remain in force not to exceed one year in cases of
28 emergency, to assure maintenance of adequate service or to
29 serve particular customers, without notice and hearing,
30 pending the determination of an application for a Certificate,
31 and may by regulation exempt from the requirements of this
32 Section temporary acts or operations for which the issuance of
33 a certificate is not necessary in the public interest and which
34 will not be required therefor.

1 (Source: P.A. 87-856.)

2 (220 ILCS 5/13-403) (from Ch. 111 2/3, par. 13-403)

3 (Section scheduled to be repealed on July 1, 2005)

4 Sec. 13-403. Interexchange service authority; approval.
5 The Commission shall approve an application for a Certificate
6 of Interexchange Service Authority only upon a showing by the
7 applicant, and a finding by the Commission, after notice and
8 hearing, that the applicant possesses sufficient technical,
9 financial and managerial resources and abilities to provide
10 interexchange telecommunications service. ~~The removal from
11 this Section of the dialing restrictions by this amendatory Act
12 of 1992 does not create any legislative presumption for or
13 against intra Market Service Area presubscription or changes
14 in intra Market Service Area dialing arrangements related to
15 the implementation of that presubscription, but simply vests
16 jurisdiction in the Illinois Commerce Commission to consider
17 after notice and hearing the issue of presubscription in
18 accordance with the policy goals outlined in Section 13-103.~~

19 The Commission shall have authority to alter the boundaries
20 of Market Service Areas when such alteration is consistent with
21 the public interest and the purposes and policies of this
22 Article. ~~A determination by the Commission with respect to
23 Market Service Area boundaries shall not modify or affect the
24 rights or obligations of any telecommunications carrier with
25 respect to any consent decree or agreement with the United
26 States Department of Justice, including, but not limited to,
27 the Modification of Final Judgment in United States v. Western
28 Electric Co., 552 F. Supp. 131 (D.D.C. 1982), as modified from
29 time to time.~~

30 (Source: P.A. 91-357, eff. 7-29-99.)

31 (220 ILCS 5/13-406) (from Ch. 111 2/3, par. 13-406)

32 (Section scheduled to be repealed on July 1, 2005)

1 Sec. 13-406. No telecommunications carrier offering or
2 providing noncompetitive telecommunications service pursuant
3 to a valid Certificate of Service Authority or certificate of
4 public convenience and necessity or price-capped competitive
5 telecommunications service pursuant to subsection (b) of
6 13-506.1 shall discontinue or abandon such service once
7 initiated until and unless it shall demonstrate, and the
8 Commission finds, after notice and hearing, that such
9 discontinuance or abandonment will not deprive customers of any
10 necessary or essential telecommunications service or access
11 thereto and is not otherwise contrary to the public interest.
12 No telecommunications carrier offering or providing
13 competitive telecommunications service shall discontinue or
14 abandon such service once initiated except upon 30 days notice
15 to the Commission and affected customers. ~~The Commission may,~~
16 ~~upon its own motion or upon complaint, investigate the proposed~~
17 ~~discontinuance or abandonment of a competitive~~
18 ~~telecommunications service and may, after notice and hearing,~~
19 ~~prohibit such proposed discontinuance or abandonment if the~~
20 ~~Commission finds that it would be contrary to the public~~
21 ~~interest.~~

22 (Source: P.A. 84-1063.)

23 (220 ILCS 5/13-407) (from Ch. 111 2/3, par. 13-407)

24 (Section scheduled to be repealed on July 1, 2005)

25 Sec. 13-407. Commission study and report. The Commission
26 shall monitor and analyze patterns of entry and exit and
27 changes in patterns of entry and exit for each relevant market
28 for telecommunications services, including ~~emerging~~ high speed
29 telecommunications markets and all services defined in
30 Sections 13-203.2, 13-203.3, 13-203.4, and 13-203.5, and shall
31 include its findings together with appropriate recommendations
32 for legislative action in its annual report to the General
33 Assembly.

1 The Commission shall also monitor and analyze the status of
2 deployment of services to consumers, and any resulting "digital
3 divisions" between consumers, including any changes or trends
4 therein. The Commission shall include its findings together
5 with appropriate recommendations for legislative action in its
6 annual report to the General Assembly. In preparing this
7 analysis the Commission shall evaluate information provided by
8 telecommunications carriers that pertains to the state of
9 competition in telecommunications markets including, but not
10 limited to:

11 (1) the number and type of firms providing
12 communications ~~telecommunications~~ services, including the
13 services defined in Sections 13-203.2, 13-203.3, and
14 13-203.5 ~~broadband telecommunications services~~, within the
15 State;

16 (2) the communications ~~telecommunications~~ services
17 offered by these firms to both retail and wholesale
18 customers;

19 (3) the extent to which customers and other providers
20 are purchasing the firms' communications
21 ~~telecommunications~~ services;

22 (4) the technologies or methods by which these firms
23 provide these services, including descriptions of
24 technologies in place and under development, and the degree
25 to which firms rely on other ~~wholesale~~ providers to provide
26 service to their own customers; and

27 (5) the ~~tariffed retail and wholesale~~ prices for
28 services provided by these firms.

29 The Commission shall at a minimum assess the variability in
30 this information according to geography, examining variability
31 by exchange, wirecenter, or zip code, and by customer class,
32 examining, at a minimum, the variability between residential
33 and small, medium, and large business customers. The Commission
34 shall provide an analysis of market trends by collecting this

1 information from firms providing communications
2 ~~telecommunications~~ services within the State. The Commission
3 shall also collect all information, in a format determined by
4 the Commission, that the Commission deems necessary to assist
5 in monitoring and analyzing the communications
6 ~~telecommunications~~ markets and the status of competition and
7 deployment of communications ~~telecommunications~~ services to
8 consumers in the State.

9 (Source: P.A. 92-22, eff. 6-30-01.)

10 (220 ILCS 5/13-501) (from Ch. 111 2/3, par. 13-501)

11 (Section scheduled to be repealed on July 1, 2005)

12 Sec. 13-501. Tariff; filing.

13 (a) No telecommunications carrier shall offer or provide
14 telecommunications service unless and until a tariff is filed
15 with the Commission which describes the nature of the service,
16 applicable rates and other charges, terms and conditions of
17 service, and the exchange, exchanges or other geographical area
18 or areas in which the service shall be offered or provided. The
19 Commission may prescribe the form of such tariff and any
20 additional data or information which shall be included therein.
21 Nothing in this Section shall be construed as requiring a
22 telecommunications carrier to tariff special equipment and
23 service arrangements when provided to meet the unique
24 telecommunications services requirements of a small number of
25 customers.

26 (b) After a hearing on noncompetitive services or a hearing
27 pursuant to subsection (d) of Section 13-505 for competitive
28 services, the Commission has the discretion to impose an
29 interim or permanent tariff on a telecommunications carrier as
30 part of the order in the case. When a tariff is imposed as part
31 of the order in a case, the tariff shall remain in full force
32 and effect until a compliance tariff, or superseding tariff, is
33 filed by the telecommunications carrier and, after notice to

1 the parties in the case and after a compliance hearing is held,
2 is found by the Commission to be in compliance with the
3 Commission's order.

4 (Source: P.A. 92-22, eff. 6-30-01.)

5 (220 ILCS 5/13-502) (from Ch. 111 2/3, par. 13-502)

6 (Section scheduled to be repealed on July 1, 2005)

7 Sec. 13-502. Classification of services.

8 (a) All telecommunications services offered or provided
9 under tariff by telecommunications carriers shall be
10 classified as either competitive or noncompetitive. A
11 telecommunications carrier may offer or provide either
12 competitive or noncompetitive telecommunications services, or
13 both, subject to proper certification and other applicable
14 provisions of this Article. Any tariff filed with the
15 Commission as required by Section 13-501 shall indicate whether
16 the service to be offered or provided is competitive or
17 noncompetitive.

18 (a-5) All telecommunications services offered or provided
19 by any telecommunications carrier, including, without
20 limitation, all existing or future telecommunications
21 services, facilities, features, or functionalities, shall be
22 classified as competitive as of the effective date of this
23 amendatory Act of the 94th General Assembly without further
24 Commission review, except as provided in this subsection. The
25 competitive classification provided in this subsection shall
26 not apply to the telecommunications services offered or
27 provided by any telecommunications carrier not subject,
28 pursuant to Section 251(f) of the federal Telecommunications
29 Act of 1996, to the competition-opening provisions of Section
30 251(c) of that Act or any successors or amendments thereof.

31 (b) For a carrier not subject, pursuant to Section 251(f)
32 of the federal Telecommunications Act of 1996, to the
33 competition-opening provisions of Section 251(c) of that Act

1 and any successors or amendments thereof, a service shall be
2 classified as competitive only if, and only to the extent that,
3 for some identifiable class or group of customers in an
4 exchange, group of exchanges, or some other clearly defined
5 geographical area, such service, or its functional equivalent,
6 or a substitute service, is reasonably available from more than
7 one provider, whether or not any such provider is a
8 telecommunications carrier subject to regulation under this
9 Act. All telecommunications services not properly classified
10 as competitive shall be classified as noncompetitive. The
11 Commission shall have the power to investigate the propriety of
12 any classification of a telecommunications service on its own
13 motion and shall investigate upon complaint. In any hearing or
14 investigation, the burden of proof as to the proper
15 classification of any service shall rest upon the
16 telecommunications carrier providing the service. After notice
17 and hearing, the Commission shall order the proper
18 classification of any service in whole or in part. The
19 Commission shall make its determination and issue its final
20 order no later than 180 days from the date such hearing or
21 investigation is initiated. If the Commission enters into a
22 hearing upon complaint and if the Commission fails to issue an
23 order within that period, the complaint shall be deemed granted
24 unless the Commission, the complainant, and the
25 telecommunications carrier providing the service agree to
26 extend the time period.

27 (c) In determining whether a service should be reclassified
28 as competitive for carriers subject to subsection (b), the
29 Commission shall, at a minimum, consider the following factors:

30 (1) the number, size, and geographic distribution of
31 other providers of the service;

32 (2) the availability of functionally equivalent
33 services in the relevant geographic area and the ability of
34 telecommunications carriers or other persons to make the

1 same, equivalent, or substitutable service readily
2 available in the relevant market at comparable rates,
3 terms, and conditions;

4 (3) the existence of economic, technological, or any
5 other barriers to entry into, or exit from, the relevant
6 market;

7 (4) the extent to which other telecommunications
8 companies must rely upon the service of another
9 telecommunications carrier to provide telecommunications
10 service; and

11 (5) any other factors that may affect competition and
12 the public interest that the Commission deems appropriate.

13 (d) No tariff classifying a new telecommunications service
14 as competitive or reclassifying a previously noncompetitive
15 telecommunications service as competitive, which is filed by a
16 telecommunications carrier subject to subsection (b) which
17 also offers or provides noncompetitive telecommunications
18 service, shall be effective unless and until such
19 telecommunications carrier offering or providing, or seeking
20 to offer or provide, such proposed competitive service prepares
21 and files a study of the long-run service incremental cost
22 underlying such service and demonstrates that the tariffed
23 rates and charges for the service and any relevant group of
24 services that includes the proposed competitive service and for
25 which resources are used in common solely by that group of
26 services are not less than the long-run service incremental
27 cost of providing the service and each relevant group of
28 services. Such study shall be given proprietary treatment by
29 the Commission at the request of such carrier if any other
30 provider of the competitive service, its functional
31 equivalent, or a substitute service in the geographical area
32 described by the proposed tariff has not filed, or has not been
33 required to file, such a study.

34 (e) In the event any telecommunications service has been

1 classified and filed as competitive by the telecommunications
2 carrier, and has been offered or provided on such basis, and
3 the Commission subsequently determines after investigation
4 that such classification improperly included services which
5 were in fact noncompetitive, the Commission shall have the
6 power to determine and order refunds to customers for any
7 overcharges which may have resulted from the improper
8 classification, or to order such other remedies provided to it
9 under this Act, or to seek an appropriate remedy or relief in a
10 court of competent jurisdiction. This subsection (e) does not
11 apply to any telecommunications services that have been
12 classified as competitive pursuant to subsection (a-5).

13 (f) If no hearing or investigation regarding the propriety
14 of a competitive classification of a telecommunications
15 service is initiated within 180 days after a telecommunications
16 carrier files a tariff listing such telecommunications service
17 as competitive, no refunds to customers for any overcharges
18 which may result from an improper classification shall be
19 ordered for the period from the time the telecommunications
20 carrier filed such tariff listing the service as competitive up
21 to the time an investigation of the service classification is
22 initiated by the Commission's own motion or the filing of a
23 complaint. Where a hearing or an investigation regarding the
24 propriety of a telecommunications service classification as
25 competitive is initiated after 180 days from the filing of the
26 tariff, the period subject to refund for improper
27 classification shall begin on the date such investigation or
28 hearing is initiated by the filing of a Commission motion or a
29 complaint. This subsection (f) does not apply to any
30 telecommunications services that have been classified as
31 competitive pursuant to subsection (a-5).

32 (Source: P.A. 92-22, eff. 6-30-01.)

1 (Section scheduled to be repealed on July 1, 2005)

2 Sec. 13-504. Application of ratemaking provisions of
3 Article IX.

4 (a) Except where the context clearly renders such
5 provisions inapplicable, the ratemaking provisions of Article
6 IX of this Act relating to public utilities are fully and
7 equally applicable to the rates, charges, tariffs and
8 classifications for the offer or provision of noncompetitive
9 telecommunications services. However, the ratemaking
10 provisions do not apply to any proposed change in rates or
11 charges, any proposed change in any classification or tariff
12 resulting in a change in rates or charges, or the establishment
13 of new services and rates therefor for a noncompetitive local
14 exchange telecommunications service offered or provided by a
15 local exchange telecommunications carrier with no more than
16 35,000 subscriber access lines. Proposed changes in rates,
17 charges, classifications, or tariffs meeting these criteria
18 shall be permitted upon the filing of the proposed tariff and
19 30 days notice to the Commission and all potentially affected
20 customers. The proposed changes shall not be subject to
21 suspension. The Commission shall investigate whether any
22 proposed change is just and reasonable only if a
23 telecommunications carrier that is a customer of the local
24 exchange telecommunications carrier or 10% of the potentially
25 affected access line subscribers of the local exchange
26 telecommunications carrier shall file a petition or complaint
27 requesting an investigation of the proposed changes. When the
28 telecommunications carrier or 10% of the potentially affected
29 access line subscribers of a local exchange telecommunications
30 carrier file a complaint, the Commission shall, after notice
31 and hearing, have the power and duty to establish the rates,
32 charges, classifications, or tariffs it finds to be just and
33 reasonable.

34 (b) Subsection (c) of Section 13-502 and Sections 13-505.17

1 ~~13-505.4, 13-505.6,~~ and 13-507 of this Article do not apply to
2 rates or charges or proposed changes in rates or charges for
3 applicable competitive or interexchange services when offered
4 or provided by a local exchange telecommunications carrier with
5 no more than 35,000 subscriber access lines. In addition,
6 Sections 13-514, 13-515, and 13-516 do not apply to
7 telecommunications carriers with no more than 35,000
8 subscriber access lines. The Commission may require
9 telecommunications carriers with no more than 35,000
10 subscriber access lines to furnish information that the
11 Commission deems necessary for a determination that rates and
12 charges for any competitive telecommunications service are
13 just and reasonable.

14 (c) For a local exchange telecommunications carrier with no
15 more than 35,000 access lines, the Commission shall consider
16 and adjust, as appropriate, a local exchange
17 telecommunications carrier's depreciation rates only in
18 ratemaking proceedings.

19 (d) Article VI and Sections 7-101 and 7-102 of Article VII
20 of this Act pertaining to public utilities, public utility
21 rates and services, and the regulation thereof are not
22 applicable to local exchange telecommunication carriers with
23 no more than 35,000 subscriber access lines.

24 (Source: P.A. 89-139, eff. 1-1-96; 90-185, eff. 7-23-97.)

25 (220 ILCS 5/13-505) (from Ch. 111 2/3, par. 13-505)

26 (Section scheduled to be repealed on July 1, 2005)

27 Sec. 13-505. Price Rate changes and cost studies,
28 ~~competitive services.~~

29 (a) Any ~~proposed~~ increase or decrease in rates or charges,
30 or proposed change in any classification or tariff resulting in
31 an increase or decrease in rates or charges, for a competitive
32 telecommunications service shall be effective ~~permitted~~ upon
33 the filing of the proposed rate, charge, classification, or

1 tariff. Prior notice of an increase shall be given to all
2 potentially affected customers by mail, publication in a
3 newspaper of general circulation, or equivalent means of
4 notice.

5 (b) Notwithstanding any of the other provisions in Section
6 9-201, any proposed increase or decrease in the rates or
7 charges of non-competitive telecommunications services shall
8 be effective 15 days after filing with the Commission. Prior
9 notice of an increase or decrease shall be given to all
10 potentially affected customers by mail, publication in a
11 newspaper of general circulation, or equivalent means of
12 notice. ~~If a hearing is held pursuant to Section 9-250~~
13 ~~regarding the reasonableness of an increase in the rates or~~
14 ~~charges of a competitive local exchange service, then the~~
15 ~~telecommunications carrier providing the service shall have~~
16 ~~the burden of proof to establish the justness and~~
17 ~~reasonableness of the proposed rate or charge.~~

18 (c) The Commission shall not require a cost study to be
19 filed for the following: (i) any statutory reclassification of
20 a service pursuant to subsection (a-5) of Section 13-502 of
21 this Article; (ii) any price increase for any competitive or
22 noncompetitive telecommunications service; (iii) any service
23 package filed pursuant to Section 13-518.1 or any price
24 increase or decrease to such service package; or (iv) any new
25 service offering, including new or revised features and
26 functionalities of an existing service.

27 (d) For price changes other than those described in
28 subsection (c) above, no cost study shall be required unless:
29 (i) upon the written request to the Commission by a
30 telecommunications carrier that offers a competing
31 telecommunications service to the telecommunications service
32 for which the price is being changed; and (ii) if the
33 Commission has a reasonable basis to believe that the changed
34 price for such telecommunications service does not exceed the

1 long-run service incremental cost of such service, the
2 Commission shall provide notice in writing to the
3 telecommunications carrier offering such service of the basis
4 for that belief. The telecommunications carrier shall respond
5 in writing within 21 days and shall indicate whether the price
6 exceeds long-run service incremental cost or, if not, whether
7 that price is being offered in response to an offer to end
8 users by a competing telecommunications carrier or to a former
9 end user that has accepted an offer for that service from a
10 competing telecommunications carrier. The Commission shall not
11 take any further regulatory action, if the telecommunications
12 carrier demonstrates that the price is being offered in
13 response to an offer to end users by a competing
14 telecommunications carrier or to a former end user that has
15 accepted an offer for that service from a competing
16 telecommunications carrier. If, after receiving the
17 telecommunications carrier's response, the Commission has a
18 reasonable basis to conclude that the disputed price does not
19 exceed the long-run service incremental cost of such service
20 and that the price is not being offered in response to an offer
21 to end users by a competing telecommunications carrier or to a
22 former end user that has accepted an offer for that service
23 from a competing telecommunications carrier, the Commission
24 may open a contested case proceeding. The telecommunications
25 carrier shall provide a cost study to the Commission within 28
26 days of a request made by the Commission during such
27 proceeding. If, after notice and hearing, the Commission
28 determines that such disputed price does not exceed the
29 long-run service incremental cost of such service and that the
30 price is not being offered in response to an offer to end users
31 by a competing telecommunications carrier or to a former end
32 user that has accepted an offer for that service from a
33 competing telecommunications carrier, it shall order the
34 telecommunications carrier to adjust such disputed price so

1 that the revised price recovers the long-run service
2 incremental cost of such service.

3 (Source: P.A. 90-185, eff. 7-23-97.)

4 (220 ILCS 5/13-506)

5 (Section scheduled to be repealed on July 1, 2005)

6 Sec. 13-506. Tariffs for competitive telecommunications
7 services.

8 (a) Telecommunications carriers may file ~~proposed~~ tariffs
9 for any competitive telecommunications service which includes
10 and specifically describes a range, band, formula, or standard
11 within which or by which a change in rates or charges for such
12 telecommunications service could be made without prior notice
13 ~~or prior Commission approval, provided that any and all rates~~
14 ~~or charges within the band or range, or determinable by the~~
15 ~~operation of the formula or standard, are consistent with the~~
16 ~~public interest and the purpose and policies of this Article~~
17 ~~and Act, and are likely to remain so for the foreseeable~~
18 ~~future. To the extent any proposed band or range encompasses~~
19 ~~rates or charges which are not consistent with the public~~
20 ~~interest and the purposes and policies of this Article and Act~~
21 ~~or otherwise fully proper, or any proposed formula or standard~~
22 ~~determines rates or charges which are not consistent with the~~
23 ~~purposes and policies of this Article and Act or otherwise~~
24 ~~fully proper, the Commission after notice and hearing shall~~
25 ~~have the power to modify the level, scope, or limits of such~~
26 ~~band or range, and to modify or limit the operation of such~~
27 ~~formula or standard, as necessary, to ensure that rates or~~
28 ~~charges resulting therefrom are consistent with the purposes~~
29 ~~and policies of this Article and Act and fully proper, and~~
30 ~~likely to remain so in the foreseeable future.~~

31 (b) (Blank). ~~The Commission may require a~~
32 ~~telecommunications carrier to file a variable tariff as~~
33 ~~described in paragraph (a) for any or all competitive~~

1 ~~telecommunications services which are offered or provided by~~
2 ~~such carrier, if the Commission finds, after notice and~~
3 ~~hearing, that the determination of rates or charges for such~~
4 ~~service by a tariff would improve the Commission's ability to~~
5 ~~effectively regulate such rates or charges and that such~~
6 ~~improvement is required by the public interest. Any such tariff~~
7 ~~required by the Commission shall be approved only if it is also~~
8 ~~consistent with the provisions of paragraph (a) of this~~
9 ~~Section.~~

10 (c) After a tariff filed pursuant to this Section becomes
11 effective, the telecommunications carrier shall determine the
12 rates and charges for services according to the provisions
13 thereof.

14 (Source: P.A. 90-185, eff. 7-23-97; 90-574, eff. 3-20-98;
15 90-655, eff. 7-30-98.)

16 (220 ILCS 5/13-506.1) (from Ch. 111 2/3, par. 13-506.1)

17 (Section scheduled to be repealed on July 1, 2005)

18 Sec. 13-506.1. Alternative forms of regulation ~~for~~
19 ~~noncompetitive services.~~

20 (a) The services classified as competitive pursuant to
21 subsection (a-5) of Section 13-502 of this Article under this
22 amendatory Act of the 94th General Assembly and offered or
23 provided by any qualifying telecommunications carrier, as
24 defined in this Section, shall be subject to the ratemaking
25 provisions of Article IX and the provisions of this Article,
26 unless such carrier elects to be subject to the provisions of
27 this Section. The ~~Notwithstanding any of the ratemaking~~
28 ~~provisions of this Article or Article IX that are deemed to~~
29 ~~require rate of return regulation, the Commission, upon request~~
30 of a qualifying telecommunications carrier, shall ~~may~~
31 implement an alternative ~~form~~ ~~forms~~ of regulation in the form
32 of a rate moratorium plan as defined in this Section, which is
33 hereinafter referred to as the basic dial tone protection plan.

1 ~~in order to establish just and reasonable rates for~~
2 ~~noncompetitive telecommunications services including, but not~~
3 ~~limited to, price regulation, earnings sharing, rate~~
4 ~~moratoria, or a network modernization plan. The Commission is~~
5 ~~authorized to adopt different forms of regulation to fit the~~
6 ~~particular characteristics of different telecommunications~~
7 ~~carriers and their service areas.~~

8 The General Assembly finds and declares that such a basic
9 dial tone protection plan meets ~~In addition to the public~~
10 ~~policy goals declared in Section 13-103 and the goals of this~~
11 Section to: ~~the Commission shall consider, in determining the~~
12 ~~appropriateness of any alternative form of regulation, whether~~
13 ~~it will:~~

14 (1) recognize the significant level of competition in
15 the communications industry and the convergence of
16 technologies; ~~reduce regulatory delay and costs over time;~~

17 (2) adopt a more appropriate form of regulation;

18 (3) ~~(2)~~ encourage innovation in services;

19 (4) ~~(3)~~ promote efficiency;

20 (5) ~~(4)~~ facilitate the broad dissemination of
21 technical improvements to all end users ~~classes of~~
22 ~~ratepayers;~~

23 (6) ~~(5)~~ enhance economic development of the State; ~~and~~

24 (7) ~~(6)~~ provide for market-based pricing of
25 telecommunications services in a competitive
26 communications environment. ~~fair, just, and reasonable~~
27 ~~rates.~~

28 ~~(b) A telecommunications carrier providing noncompetitive~~
29 ~~telecommunications services may petition the Commission to~~
30 ~~regulate the rates or charges of its noncompetitive services~~
31 ~~under an alternative form of regulation. The~~
32 ~~telecommunications carrier shall submit with its petition its~~
33 ~~plan for an alternative form of regulation. The Commission~~
34 ~~shall review and may modify or reject the carrier's proposed~~

1 ~~plan. The Commission also may initiate consideration of~~
2 ~~alternative forms of regulation for a telecommunications~~
3 ~~carrier on its own motion. The Commission may approve the plan~~
4 ~~or modified plan and authorize its implementation only if it~~
5 ~~finds, after notice and hearing, that the plan or modified plan~~
6 ~~at a minimum:~~

7 The General Assembly further finds that such a plan:

8 (1) is in the public interest;

9 ~~(2) will produce fair, just, and reasonable rates for~~
10 ~~telecommunications services;~~

11 ~~(3) responds to changes in technology and the structure~~
12 ~~of the telecommunications industry that are, in fact,~~
13 ~~occurring;~~

14 ~~(4) constitutes a more appropriate form of regulation~~
15 ~~based on the Commission's overall consideration of the~~
16 ~~policy goals set forth in Section 13-103 and this Section;~~

17 ~~(5) specifically identifies how ratepayers will~~
18 ~~benefit from any efficiency gains, cost savings arising out~~
19 ~~of the regulatory change, and improvements in productivity~~
20 ~~due to technological change;~~

21 (2) ~~(6)~~ will maintain the quality and availability of
22 telecommunications services; and

23 (3) ~~(7)~~ will not unduly or unreasonably prejudice or
24 disadvantage any particular customer class, including
25 telecommunications carriers not subject, pursuant to
26 Section 251(f) of the federal Telecommunications Act of
27 1996, to the competition-opening provisions of Section
28 251(c) of that Act.

29 (b) Any qualifying telecommunications carrier may elect to
30 be governed under a rate moratorium alternative form of
31 regulation that complies with this subsection (b) upon
32 providing notice to the Commission that it elects to do so. A
33 rate moratorium alternative form of regulation plan that
34 satisfies the requirements of this subsection (b) shall become

1 effective 30 days after notice is provided by any qualifying
2 telecommunications carrier to the Commission. During that 30
3 day period, the qualifying telecommunications carrier shall
4 remain subject to the form of regulation that it was under on
5 the date that it provided notice to the Commission. The rate
6 moratorium alternative form of regulation plan authorized by
7 this subsection (b) shall consist of the following provisions:

8 (1) All price-capped competitive telecommunications
9 services, as defined in this Section, offered or provided
10 by any qualifying telecommunications carrier shall be
11 included in the basic dial tone protection plan. All other
12 competitive telecommunications services, as defined in
13 this Section, shall be excluded from such plan.

14 (2) For three years from the date that the
15 telecommunications carrier becomes subject to the rate
16 moratorium alternative form of regulation, the rates for
17 price-capped competitive telecommunications services shall
18 not exceed the rates that the telecommunications carrier
19 charged for those services on February 1, 2005; provided,
20 however, that nothing shall be construed to prohibit
21 reduction of those rates; and

22 (3) No other terms from any plan adopted under prior
23 Commission authority shall be required under subsection
24 (b).

25 (c) For purposes of subsection (b) of this Section: (i)
26 "price-capped competitive telecommunications service" means
27 the stand-alone primary residence network access lines, along
28 with any associated untimed local usage charged on a per-call
29 basis and not subject to presubscription. For purpose of this
30 subsection, a primary residence network access line with such
31 usage shall be considered a stand-alone offering subject to
32 price cap, notwithstanding the purchase by the customer of
33 additional service elements, features or functionalities for
34 such line, so long as such additional service elements,

1 features or functionalities are purchased on an individual
2 basis, and not as part of a service package. The additional
3 service elements, features or functionalities for such line
4 shall not be subject to price cap; (ii) "Competitive
5 telecommunications service" means any telecommunications
6 service other than a price-capped competitive
7 telecommunications service as defined in this subsection (c);
8 and (iii) a "qualifying telecommunications carrier" is any
9 incumbent local exchange carrier subject to the
10 competition-opening provisions of Section 251(c) of the
11 federal Telecommunications Act of 1996 and any successors or
12 amendments thereof.

13 ~~(c) An alternative regulation plan approved under this~~
14 ~~Section shall provide, as a condition for Commission approval~~
15 ~~of the plan, that for the first 3 years the plan is in effect,~~
16 ~~basic residence service rates shall be no higher than those~~
17 ~~rates in effect 180 days before the filing of the plan. This~~
18 ~~provision shall not be used as a justification or rationale for~~
19 ~~an increase in basic service rates for any other customer~~
20 ~~class. For purposes of this Section, "basic residence service~~
21 ~~rates" shall mean monthly recurring charges for the~~
22 ~~telecommunications carrier's lowest priced primary residence~~
23 ~~network access lines, along with any associated untimed or flat~~
24 ~~rate local usage charges. Nothing in this subsection (c) shall~~
25 ~~preclude the Commission from approving an alternative~~
26 ~~regulation plan that results in rate reductions provided all~~
27 ~~the requirements of subsection (b) are satisfied by the plan.~~

28 ~~(d) Any alternative form of regulation granted for a~~
29 ~~multi-year period under this Section shall provide for annual~~
30 ~~or more frequent reporting to the Commission to document that~~
31 ~~the requirements of the plan are being properly implemented.~~

32 ~~(e) Upon petition by the telecommunications carrier or any~~
33 ~~other person or upon its own motion, the Commission may rescind~~
34 ~~its approval of an alternative form of regulation if, after~~

1 ~~notice and hearing, it finds that the conditions set forth in~~
2 ~~subsection (b) of this Section can no longer be satisfied. Any~~
3 ~~person may file a complaint alleging that the rates charged by~~
4 ~~a telecommunications carrier under an alternative form of~~
5 ~~regulation are unfair, unjust, unreasonable, unduly~~
6 ~~discriminatory, or are otherwise not consistent with the~~
7 ~~requirements of this Article; provided, that the complainant~~
8 ~~shall bear the burden of proving the allegations in the~~
9 ~~complaint.~~

10 ~~(f) Nothing in this Section shall be construed to authorize~~
11 ~~the Commission to render Sections 9-241, 9-250, and 13-505.2~~
12 ~~inapplicable to noncompetitive services.~~

13 (Source: P.A. 87-856.)

14 (220 ILCS 5/13-509) (from Ch. 111 2/3, par. 13-509)

15 (Section scheduled to be repealed on July 1, 2005)

16 Sec. 13-509. Agreements for provisions of competitive
17 telecommunications services differing from tariffs. A
18 telecommunications carrier may negotiate with customers or
19 prospective customers to provide competitive
20 telecommunications service, and in so doing, may offer or agree
21 to provide such service ~~on such terms and for such rates or~~
22 ~~charges as are reasonable,~~ without regard to any tariffs it may
23 have filed with the Commission with respect to such services.
24 Within 30 days after executing any such agreement, the
25 telecommunications carrier shall submit to the Commission
26 written notice of a list of any such agreements (which list may
27 be filed electronically). The notice shall identify the general
28 nature of all such agreements, the parties to each agreement,
29 and a general description of differences between each agreement
30 and the related tariff. A copy of each such agreement ~~and any~~
31 ~~cost support required to be filed with the agreement by some~~
32 ~~other Section of this Act~~ shall be provided to the Commission
33 within 10 business days after a request for review of the

1 agreement is made by the Commission or is made to the
2 Commission by another telecommunications carrier. Upon
3 submitting notice to the Commission of any such agreement, the
4 telecommunications carrier shall thereafter provide service
5 according to the terms thereof, ~~unless the Commission finds,~~
6 ~~after notice and hearing, that the continued provision of~~
7 ~~service pursuant to such agreement would substantially and~~
8 ~~adversely affect the financial integrity of the~~
9 ~~telecommunications carrier or would violate any other~~
10 ~~provision of this Act.~~

11 Any agreement or notice entered into or submitted pursuant
12 to the provisions of this Section may, in the Commission's
13 discretion, be accorded proprietary treatment.

14 (Source: P.A. 92-22, eff. 6-30-01; 93-245, eff. 7-22-03.)

15 (220 ILCS 5/13-514)

16 (Section scheduled to be repealed on July 1, 2005)

17 Sec. 13-514. Prohibited Actions of Telecommunications
18 Carriers. A telecommunications carrier shall not knowingly
19 impede the development of competition in any
20 telecommunications service market. The following prohibited
21 actions are considered per se impediments to the development of
22 competition; however, the Commission is not limited in any
23 manner to these enumerated impediments and may consider other
24 actions which impede competition to be prohibited:

25 (1) unreasonably refusing or delaying interconnections or
26 collocation or providing inferior connections to another
27 telecommunications carrier;

28 (2) unreasonably impairing the speed, quality, or
29 efficiency of services used by another telecommunications
30 carrier;

31 (3) unreasonably denying a request of another provider for
32 information regarding the technical design and features,
33 geographic coverage, information necessary for the design of

1 equipment, and traffic capabilities of the local exchange
2 network except for proprietary information unless such
3 information is subject to a proprietary agreement or protective
4 order;

5 (4) unreasonably delaying access in connecting another
6 telecommunications carrier to the local exchange network whose
7 product or service requires novel or specialized access
8 requirements;

9 (5) unreasonably refusing or delaying access by any person
10 to another telecommunications carrier;

11 (6) unreasonably acting or failing to act in a manner that
12 has a substantial adverse effect on the ability of another
13 telecommunications carrier to provide service to its
14 customers;

15 (7) unreasonably failing to offer services to customers in
16 a local exchange, where a telecommunications carrier is
17 certificated to provide service and has entered into an
18 interconnection agreement for the provision of local exchange
19 telecommunications services, with the intent to delay or impede
20 the ability of the incumbent local exchange telecommunications
21 carrier to provide inter-LATA telecommunications services;

22 (8) violating the terms of or unreasonably delaying
23 implementation of an interconnection agreement entered into
24 pursuant to Section 252 of the federal Telecommunications Act
25 of 1996 in a manner that unreasonably delays, increases the
26 cost, or impedes the availability of telecommunications
27 services to consumers;

28 (9) unreasonably refusing or delaying access to or
29 provision of operation support systems to another
30 telecommunications carrier or providing inferior operation
31 support systems to another telecommunications carrier;

32 (10) unreasonably failing to offer network elements that
33 ~~the Commission or~~ the Federal Communications Commission has
34 determined must be offered on an unbundled basis to another

1 telecommunications carrier in a manner consistent with the
2 ~~Commission's or~~ Federal Communications Commission's orders or
3 rules requiring such offerings;

4 (11) violating the obligations of Section 13-801; and

5 (12) violating an order of the Commission regarding matters
6 between telecommunications carriers.

7 (Source: P.A. 92-22, eff. 6-30-01.)

8 (220 ILCS 5/13-515)

9 (Section scheduled to be repealed on July 1, 2005)

10 Sec. 13-515. Enforcement.

11 (a) The following expedited procedures shall be used to
12 enforce the provisions of Section 13-514 of this Act. However,
13 the Commission, the complainant, and the respondent may
14 mutually agree to adjust the procedures established in this
15 Section.

16 (b) (Blank).

17 (c) No complaint may be filed under this Section until the
18 complainant has first notified the respondent of the alleged
19 violation and offered the respondent 5 business days ~~48 hours~~
20 to correct the situation. Provision of notice and the
21 opportunity to correct the situation creates a rebuttable
22 presumption of knowledge under Section 13-514. After the filing
23 of a complaint under this Section, the parties may agree to
24 follow the mediation process under Section 10-101.1 of this
25 Act. The time periods specified in subdivision (d)(7) of this
26 Section shall be tolled during the time spent in mediation
27 under Section 10-101.1.

28 (d) A telecommunications carrier may file a complaint with
29 the Commission alleging a violation of Section 13-514 in
30 accordance with this subsection:

31 (1) The complaint shall be filed with the Chief Clerk
32 of the Commission and shall be served in hand upon the
33 respondent, the executive director, and the general

1 counsel of the Commission at the time of the filing.

2 (2) A complaint filed under this subsection shall
3 include a statement that the requirements of subsection (c)
4 have been fulfilled and that the respondent did not correct
5 the situation as requested.

6 (3) Reasonable discovery specific to the issue of the
7 complaint may commence upon filing of the complaint.
8 Requests for discovery must be served in hand and responses
9 to discovery must be provided in hand to the requester
10 within 14 days after a request for discovery is made.

11 (4) An answer and any other responsive pleading to the
12 complaint shall be filed with the Commission and served in
13 hand at the same time upon the complainant, the executive
14 director, and the general counsel of the Commission within
15 7 days after the date on which the complaint is filed.

16 (5) If the answer or responsive pleading raises the
17 issue that the complaint violates subsection (i) of this
18 Section, the complainant may file a reply to such
19 allegation within 3 days after actual service of such
20 answer or responsive pleading. Within 4 days after the time
21 for filing a reply has expired, the hearing officer or
22 arbitrator shall either issue a written decision
23 dismissing the complaint as frivolous in violation of
24 subsection (i) of this Section including the reasons for
25 such disposition or shall issue an order directing that the
26 complaint shall proceed.

27 (6) A pre-hearing conference shall be held within 14
28 days after the date on which the complaint is filed.

29 (7) The hearing shall commence within 30 days of the
30 date on which the complaint is filed. The hearing may be
31 conducted by a hearing examiner or by an arbitrator.
32 Parties and the Commission staff shall be entitled to
33 present evidence and legal argument in oral or written form
34 as deemed appropriate by the hearing examiner or

1 arbitrator. The hearing examiner or arbitrator shall issue
2 a written decision within 60 days after the date on which
3 the complaint is filed. The decision shall include reasons
4 for the disposition of the complaint and, if a violation of
5 Section 13-514 is found, directions and a deadline for
6 correction of the violation.

7 (8) Any party may file a petition requesting the
8 Commission to review the decision of the hearing examiner
9 or arbitrator within 5 days of such decision. Any party may
10 file a response to a petition for review within 3 business
11 days after actual service of the petition. After the time
12 for filing of the petition for review, but no later than 15
13 days after the decision of the hearing examiner or
14 arbitrator, the Commission shall decide to adopt the
15 decision of the hearing examiner or arbitrator or shall
16 issue its own final order.

17 (e) If the alleged violation has a substantial adverse
18 effect on the ability of the complainant to provide service to
19 customers, the complainant may include in its complaint a
20 request for an order for emergency relief. The Commission,
21 acting through its designated hearing examiner or arbitrator,
22 shall act upon such a request within 2 business days of the
23 filing of the complaint. An order for emergency relief may be
24 granted, without an evidentiary hearing, upon a verified
25 factual showing that the party seeking relief will likely
26 succeed on the merits, that the party will suffer irreparable
27 harm in its ability to serve customers if emergency relief is
28 not granted, and that the order is in the public interest. An
29 order for emergency relief shall include a finding that the
30 requirements of this subsection have been fulfilled and shall
31 specify the directives that must be fulfilled by the respondent
32 and deadlines for meeting those directives. The decision of the
33 hearing examiner or arbitrator to grant or deny emergency
34 relief shall be considered an order of the Commission unless

1 the Commission enters its own order within 2 calendar days of
2 the decision of the hearing examiner or arbitrator. The order
3 for emergency relief may require the responding party to act or
4 refrain from acting so as to protect the provision of
5 competitive service offerings to customers. Any action
6 required by an emergency relief order must be technically
7 feasible and economically reasonable and the respondent must be
8 given a reasonable period of time to comply with the order.

9 (f) The Commission is authorized to obtain outside
10 resources including, but not limited to, arbitrators and
11 consultants for the purposes of the hearings authorized by this
12 Section. Any arbitrator or consultant obtained by the
13 Commission shall be approved by both parties to the hearing.
14 The cost of such outside resources including, but not limited
15 to, arbitrators and consultants shall be borne by the parties.
16 The Commission shall review the bill for reasonableness and
17 assess the parties for reasonable costs dividing the costs
18 according to the resolution of the complaint brought under this
19 Section. Such costs shall be paid by the parties directly to
20 the arbitrators, consultants, and other providers of outside
21 resources within 60 days after receiving notice of the
22 assessments from the Commission. Interest at the statutory rate
23 shall accrue after expiration of the 60-day period. The
24 Commission, arbitrators, consultants, or other providers of
25 outside resources may apply to a court of competent
26 jurisdiction for an order requiring payment.

27 (g) The Commission shall assess the parties under this
28 subsection for all of the Commission's costs of investigation
29 and conduct of the proceedings brought under this Section
30 including, but not limited to, the prorated salaries of staff,
31 attorneys, hearing examiners, and support personnel and
32 including any travel and per diem, directly attributable to the
33 complaint brought pursuant to this Section, but excluding those
34 costs provided for in subsection (f), dividing the costs

1 according to the resolution of the complaint brought under this
2 Section. All assessments made under this subsection shall be
3 paid into the Public Utility Fund within 60 days after
4 receiving notice of the assessments from the Commission.
5 Interest at the statutory rate shall accrue after the
6 expiration of the 60 day period. The Commission is authorized
7 to apply to a court of competent jurisdiction for an order
8 requiring payment.

9 (h) If the Commission determines that there is an imminent
10 threat to competition or to the public interest, the Commission
11 may, notwithstanding any other provision of this Act, seek
12 temporary, preliminary, or permanent injunctive relief from a
13 court of competent jurisdiction either prior to or after the
14 hearing.

15 (i) A party shall not bring or defend a proceeding brought
16 under this Section or assert or controvert an issue in a
17 proceeding brought under this Section, unless there is a
18 non-frivolous basis for doing so. By presenting a pleading,
19 written motion, or other paper in complaint or defense of the
20 actions or inaction of a party under this Section, a party is
21 certifying to the Commission that to the best of that party's
22 knowledge, information, and belief, formed after a reasonable
23 inquiry of the subject matter of the complaint or defense, that
24 the complaint or defense is well grounded in law and fact, and
25 under the circumstances:

26 (1) it is not being presented to harass the other
27 party, cause unnecessary delay in the provision of
28 competitive telecommunications services to consumers, or
29 create needless increases in the cost of litigation; and

30 (2) the allegations and other factual contentions have
31 evidentiary support or, if specifically so identified, are
32 likely to have evidentiary support after reasonable
33 opportunity for further investigation or discovery as
34 defined herein.

1 (j) If, after notice and a reasonable opportunity to
2 respond, the Commission determines that subsection (i) has been
3 violated, the Commission shall impose appropriate sanctions
4 upon the party or parties that have violated subsection (i) or
5 are responsible for the violation. The sanctions shall be not
6 more than \$30,000, plus the amount of expenses accrued by the
7 Commission for conducting the hearing. Payment of sanctions
8 imposed under this subsection shall be made to the Common
9 School Fund within 30 days of imposition of such sanctions.

10 (k) An appeal of a Commission Order made pursuant to this
11 Section shall not effectuate a stay of the Order unless a court
12 of competent jurisdiction specifically finds that the party
13 seeking the stay will likely succeed on the merits, that the
14 party will suffer irreparable harm without the stay, and that
15 the stay is in the public interest.

16 (Source: P.A. 92-22, eff. 6-30-01.)

17 (220 ILCS 5/13-517)

18 (Section scheduled to be repealed on July 1, 2005)

19 Sec. 13-517. Provision of advanced telecommunications
20 services.

21 (a) Every Incumbent Local Exchange Carrier ~~Local Exchange~~
22 ~~Carrier (telecommunications carrier that offers or provides a~~
23 ~~noncompetitive telecommunications service)~~ shall offer or
24 provide advanced telecommunications services to not less than
25 80% of its customers by January 1, 2005. An Incumbent Local
26 Exchange Carrier may satisfy this requirement through services
27 offered or provided by an affiliate.

28 (b) The Commission is authorized to grant a full or partial
29 waiver of the requirements of this Section upon verified
30 petition of any Incumbent Local Exchange Carrier ("ILEC") which
31 demonstrates that full compliance with the requirements of this
32 Section would be unduly economically burdensome or technically
33 infeasible or otherwise impractical in exchanges with low

1 population density. Notice of any such petition must be given
2 to all potentially affected customers. If no potentially
3 affected customer requests the opportunity for a hearing on the
4 waiver petition, the Commission may, in its discretion, allow
5 the waiver request to take affect without hearing. The
6 Commission shall grant such petition to the extent that, and
7 for such duration as, the Commission determines that such
8 waiver:

9 (1) is necessary:

10 (A) to avoid a significant adverse economic impact
11 on users of telecommunications services generally;

12 (B) to avoid imposing a requirement that is unduly
13 economically burdensome;

14 (C) to avoid imposing a requirement that is
15 technically infeasible; or

16 (D) to avoid imposing a requirement that is
17 otherwise impractical to implement in exchanges with
18 low population density; and

19 (2) is consistent with the public interest,
20 convenience, and necessity.

21 The Commission shall act upon any petition filed under this
22 subsection within 180 days after receiving such petition. The
23 Commission may by rule establish standards for granting any
24 waiver of the requirements of this Section. The Commission may,
25 upon complaint or on its own motion, hold a hearing to
26 reconsider its grant of a waiver in whole or in part. In the
27 event that the Commission, following hearing, determines that
28 the affected ILEC no longer meets the requirements of item (2)
29 of this subsection, the Commission shall by order rescind such
30 waiver, in whole or in part. In the event and to the degree the
31 Commission rescinds such waiver, the Commission shall
32 establish an implementation schedule for compliance with the
33 requirements of this Section.

34 (c) As used in this Section, "advanced telecommunications

1 services" means services capable of supporting, in at least one
2 direction, a speed in excess of 200 kilobits per second (kbps)
3 to the network demarcation point at the subscriber's premises.

4 (Source: P.A. 92-22, eff. 6-30-01.)

5 (220 ILCS 5/13-518.1 new)

6 Sec. 13-518.1. Service packages. Notwithstanding any other
7 provisions of this Act:

8 (1) A telecommunications carrier may offer
9 telecommunications services, both competitive and
10 noncompetitive, and non-regulated services or products, in
11 a package to residential and business end users so long as
12 the total price of such service package exceeds the
13 long-run service incremental cost of the
14 telecommunications services included in the service
15 package. The telecommunications services included in a
16 service package may be offered under the rates, terms and
17 conditions of the service package so long as each of the
18 noncompetitive or price-capped competitive
19 telecommunications services contained within such service
20 package is separately tariffed and offered to end users on
21 a stand-alone basis. To the extent the service package
22 includes non-regulated services or products, the
23 Commission shall have no jurisdiction over the prices,
24 terms or conditions for the offering of such non-regulated
25 services or products nor shall such non-regulated services
26 or products be required to be included in the service
27 package tariff. For purposes of this Section
28 "non-regulated services or products" means anything that
29 is neither a competitive telecommunications services nor a
30 noncompetitive telecommunications services as defined in
31 this Article.

32 (2) Any service package that contains both competitive
33 telecommunications services and noncompetitive

1 telecommunications services shall be classified as a
2 competitive telecommunications service, without further
3 Commission review, so long as each noncompetitive
4 telecommunications service within the package is
5 separately tariffed and offered to end users on a
6 stand-alone basis.

7 (220 ILCS 5/13-601) (from Ch. 111 2/3, par. 13-601)

8 (Section scheduled to be repealed on July 1, 2005)

9 Sec. 13-601. Application of Article VII. The provisions of
10 Article VII of this Act are applicable only to
11 telecommunications carriers offering or providing
12 noncompetitive telecommunications service or price-capped
13 competitive telecommunications service, and the Commission's
14 regulation thereof, except that (1) the approval of contracts
15 and arrangements with affiliated interests required by
16 paragraph (3) of Section 7-101 shall not apply to such
17 telecommunications carriers provided that, except as provided
18 in item (2), those contracts and arrangements shall be filed
19 with the Commission and (2) affiliated interest contracts or
20 arrangements entered into by such telecommunications carriers
21 where the increased obligation thereunder does not exceed the
22 lesser of \$5,000,000 or 5% of such carrier's prior annual
23 revenue from noncompetitive services are not required to be
24 filed with the Commission.

25 (Source: P.A. 89-440, eff. 12-15-95.)

26 (220 ILCS 5/13-712)

27 (Section scheduled to be repealed on July 1, 2005)

28 Sec. 13-712. Basic local exchange service quality;
29 customer credits.

30 (a) It is the intent of the General Assembly that every
31 telecommunications carrier meet minimum service quality
32 standards in providing basic local exchange service on a

1 non-discriminatory basis to all classes of customers.

2 (b) Definitions:

3 (1) "Alternative telephone service" means, except
4 where technically impracticable, a wireless telephone
5 capable of making local calls, and may also include, but is
6 not limited to, call forwarding, voice mail, or paging
7 services.

8 (2) "Basic local exchange service" means residential
9 and business lines used for local exchange
10 telecommunications service as defined in Section 13-204 of
11 this Act, excluding:

12 (A) services that employ advanced
13 telecommunications capability as defined in Section
14 706(c)(1) of the federal Telecommunications Act of
15 1996;

16 (B) vertical services;

17 (C) company official lines; and

18 (D) records work only.

19 (3) "Link Up" refers to the Link Up Assistance program
20 defined and established at 47 C.F.R. Section 54.411 et seq.
21 as amended.

22 (c) The Commission shall promulgate service quality rules
23 for basic local exchange service, which may include fines,
24 penalties, customer credits, and other enforcement mechanisms
25 and that shall apply equally to all telecommunications carriers
26 providing basic local exchange service. Each service quality
27 standard in such rules shall be reasonable, and any fines,
28 penalties, customer credits and enforcement mechanisms shall
29 be proportionate to the violation of that service quality
30 standard. In developing ~~such service quality~~ rules, for
31 imposing such fines, penalties, customer credits and other
32 enforcement mechanisms, the Commission shall consider, at a
33 minimum, the carrier's gross annual intrastate revenue; the
34 frequency, duration, and recurrence of the violation; and the

1 relative harm caused to the affected customer or other users of
2 the network. In imposing fines, the Commission shall take into
3 account compensation or credits paid by the telecommunications
4 carrier to its customers pursuant to this Section in
5 compensation for the violation found pursuant to this Section.
6 ~~These rules shall become effective within one year after the~~
7 ~~effective date of this amendatory Act of the 92nd General~~
8 ~~Assembly.~~

9 (d) The rules shall, at a minimum, require each
10 telecommunications carrier to do all of the following:

11 (1) Install basic local exchange service within 5
12 business days after receipt of an order from the customer
13 unless the customer requests an installation date that is
14 beyond 5 business days after placing the order for basic
15 service and to inform the customer of its duty to install
16 service within this timeframe. If installation of service
17 is requested on or by a date more than 5 business days in
18 the future, the telecommunications carrier shall install
19 service by the date requested. A telecommunications
20 carrier offering basic local exchange service utilizing
21 the network or network elements of another carrier shall
22 install new lines for basic local exchange service within 3
23 business days after provisioning of the line or lines by
24 the carrier whose network or network elements are being
25 utilized is complete. This subdivision (d)(1) does not
26 apply to the migration of a customer between
27 telecommunications carriers, so long as the customer
28 maintains dial tone.

29 (2) Restore basic local exchange service for a customer
30 within 24 hours of receiving notice that a customer is out
31 of service. This provision applies to service disruptions
32 that occur when a customer switches existing basic local
33 exchange service from one carrier to another.

34 (3) Keep all repair and installation appointments for

1 basic local exchange service, when a customer premises
2 visit requires a customer to be present.

3 (4) Inform a customer when a repair or installation
4 appointment requires the customer to be present.

5 (e) The rules shall include provisions for customers to be
6 credited by the telecommunications carrier for violations of
7 basic local exchange service quality standards as described in
8 subsection (d). The credits shall be applied on the statement
9 issued to the customer for the next monthly billing cycle
10 following the violation or following the discovery of the
11 violation. The performance levels established in subsection
12 (c) are solely for the purposes of consumer credits and shall
13 not be used as performance levels for the purposes of assessing
14 penalties under Section 13-305. At a minimum, the rules shall
15 include the following:

16 (1) If a carrier fails to repair an out-of-service
17 condition for basic local exchange service within 24 hours,
18 the carrier shall provide a credit to the customer. If the
19 service disruption is for 48 hours or less, the credit must
20 be equal to a pro-rata portion of the monthly recurring
21 charges for all local services disrupted. If the service
22 disruption is for more than 48 hours, but not more than 72
23 hours, the credit must be equal to at least 33% of one
24 month's recurring charges for all local services
25 disrupted. If the service disruption is for more than 72
26 hours, but not more than 96 hours, the credit must be equal
27 to at least 67% of one month's recurring charges for all
28 local services disrupted. If the service disruption is for
29 more than 96 hours, but not more than 120 hours, the credit
30 must be equal to one month's recurring charges for all
31 local services disrupted. For each day or portion thereof
32 that the service disruption continues beyond the initial
33 120-hour period, the carrier shall also provide either
34 alternative telephone service or an additional credit of

1 \$20 per day, at the customers option.

2 (2) If a carrier fails to install basic local exchange
3 service as required under subdivision (d)(1), the carrier
4 shall waive 50% of any installation charges, or in the
5 absence of an installation charge or where installation is
6 pursuant to the Link Up program, the carrier shall provide
7 a credit of \$25. If a carrier fails to install service
8 within 10 business days after the service application is
9 placed, or fails to install service within 5 business days
10 after the customer's requested installation date, if the
11 requested date was more than 5 business days after the date
12 of the order, the carrier shall waive 100% of the
13 installation charge, or in the absence of an installation
14 charge or where installation is provided pursuant to the
15 Link Up program, the carrier shall provide a credit of \$50.
16 For each day that the failure to install service continues
17 beyond the initial 10 business days, or beyond 5 business
18 days after the customer's requested installation date, if
19 the requested date was more than 5 business days after the
20 date of the order, the carrier shall also provide either
21 alternative telephone service or an additional credit of
22 \$20 per day, at the customer's option until service is
23 installed.

24 (3) If a carrier fails to keep a scheduled repair or
25 installation appointment when a customer premises visit
26 requires a customer to be present, the carrier shall credit
27 the customer \$50 per missed appointment. A credit required
28 by this subsection does not apply when the carrier provides
29 the customer with 24-hour notice of its inability to keep
30 the appointment.

31 (4) If the violation of a basic local exchange service
32 quality standard is caused by a carrier other than the
33 carrier providing retail service to the customer, the
34 carrier providing retail service to the customer shall

1 credit the customer as provided in this Section. The
2 carrier causing the violation shall reimburse the carrier
3 providing retail service the amount credited the customer.
4 When applicable, an interconnection agreement shall govern
5 compensation between the carrier causing the violation, in
6 whole or in part, and the retail carrier providing the
7 credit to the customer.

8 (5) When alternative telephone service is appropriate,
9 the customer may select one of the alternative telephone
10 services offered by the carrier. The alternative telephone
11 service shall be provided at no cost to the customer for
12 the provision of local service.

13 (6) Credits required by this subsection do not apply if
14 the violation of a service quality standard:

15 (i) occurs as a result of a negligent or willful
16 act on the part of the customer;

17 (ii) occurs as a result of a malfunction of
18 customer-owned telephone equipment or inside wiring;

19 (iii) occurs as a result of, or is extended by, an
20 emergency situation as defined in Commission rules;

21 (iv) is extended by the carrier's inability to gain
22 access to the customer's premises due to the customer
23 missing an appointment, provided that the violation is
24 not further extended by the carrier;

25 (v) occurs as a result of a customer request to
26 change the scheduled appointment, provided that the
27 violation is not further extended by the carrier;

28 (vi) occurs as a result of a carrier's right to
29 refuse service to a customer as provided in Commission
30 rules; or

31 (vii) occurs as a result of a lack of facilities
32 where a customer requests service at a geographically
33 remote location, a customer requests service in a
34 geographic area where the carrier is not currently

1 offering service, or there are insufficient facilities
2 to meet the customer's request for service, subject to
3 a carrier's obligation for reasonable facilities
4 planning.

5 (7) The provisions of this subsection are cumulative
6 and shall not in any way diminish or replace other civil or
7 administrative remedies available to a customer or a class
8 of customers.

9 (f) The rules shall require each telecommunications
10 carrier to provide to the Commission, on a quarterly basis and
11 in a form suitable for posting on the Commission's website, a
12 public report that includes performance data for basic local
13 exchange service quality of service. The performance data shall
14 be disaggregated for each geographic area and each customer
15 class of the State for which the telecommunications carrier
16 internally monitored performance data as of a date 120 days
17 preceding the effective date of this amendatory Act of the 92nd
18 General Assembly. The report shall include, at a minimum,
19 performance data on basic local exchange service
20 installations, lines out of service for more than 24 hours,
21 carrier response to customer calls, trouble reports, and missed
22 repair and installation commitments.

23 (g) The Commission shall establish and implement carrier to
24 carrier wholesale service quality rules and establish remedies
25 to ensure enforcement of the rules. These rules shall become
26 effective within one year after the effective date of this
27 amendatory Act of the 94th General Assembly. The wholesale
28 service quality rules and standards shall be reasonable, and
29 any remedies shall be proportionate to the actual damages, if
30 any, to the other telecommunications carrier. Any
31 carrier-to-carrier rules developed by the Commission pursuant
32 to this subsection shall: (1) not exceed the duties imposed on
33 telecommunications carriers pursuant to Section 251 of the
34 federal Telecommunications Act of 1996, and regulations

1 promulgated thereunder or any amendments and successors
2 thereof; (2) only relate to basic local exchange service to end
3 users and shall specify the terms and conditions regarding the
4 transfer of customer information, telephone numbers and
5 required unbundled network elements when a basic local exchange
6 end user customer transfers from one telecommunications
7 carrier to another telecommunications carrier; (3) apply
8 equally to any telecommunications carrier providing basic
9 local exchange service; and (4) be the only wholesale service
10 quality rules that apply at the expiration of any wholesale
11 performance plan previously adopted by the Commission for any
12 telecommunications carrier prior to the amendment of this
13 subsection or on July 1, 2007, whichever date is earlier. This
14 subsection shall not apply to incumbent local exchange carriers
15 not subject to the competition-opening provisions of Section
16 251(c) of the federal Telecommunications Act of 1996 and any
17 successors or amendments thereof.

18 (Source: P.A. 92-22, eff. 6-30-01.)

19 (220 ILCS 5/13-801) (from Ch. 111 2/3, par. 13-801)

20 (Section scheduled to be repealed on July 1, 2005)

21 Sec. 13-801. Incumbent local exchange carrier obligations.

22 (a) This Section provides ~~additional~~ State requirements
23 for incumbent local exchange carriers that the General Assembly
24 believes are consistent with and not preempted by contemplated
25 by, but not inconsistent with, Section 261(e) of the federal
26 Telecommunications Act of 1996, and regulations promulgated
27 thereunder or any amendments or successors thereof. not
28 preempted by orders of the Federal Communications Commission. A
29 telecommunications carrier not subject to regulation under an
30 alternative regulation plan pursuant to Section 13-506.1 of
31 this Act shall not be subject to the provisions of this
32 Section, to the extent that this Section imposes requirements
33 or obligations upon the telecommunications carrier that exceed

1 ~~or are more stringent than those obligations imposed by Section~~
2 ~~251 of the federal Telecommunications Act of 1996 and~~
3 ~~regulations promulgated thereunder.~~

4 Nothing in this Article or this Section shall be construed
5 to require any incumbent local exchange carrier to provide any
6 other telecommunications carrier with interconnection,
7 collocation, access to any network element, whether unbundled
8 or combined with other network elements, or resale where the
9 Federal Communications Commission does not require such
10 interconnection, collocation, access to any network element,
11 or resale to be provided pursuant to Section 251 of the federal
12 Telecommunications Act of 1996 or any amendment or successor
13 thereof.

14 An incumbent local exchange carrier shall provide a
15 requesting telecommunications carrier with interconnection,
16 collocation, network elements, and access to operations
17 support systems on just, reasonable, and nondiscriminatory
18 rates, terms, and conditions to enable the provision of any and
19 all existing and new telecommunications services within the
20 LATA, including, but not limited to, local exchange and
21 exchange access. ~~The Commission shall require the incumbent~~
22 ~~local exchange carrier to provide interconnection,~~
23 ~~collocation, and network elements in any manner technically~~
24 ~~feasible to the fullest extent possible to implement the~~
25 ~~maximum development of competitive telecommunications services~~
26 ~~offerings. As used in this Section, to the extent that~~
27 ~~interconnection, collocation, or network elements have been~~
28 ~~deployed for or by the incumbent local exchange carrier or one~~
29 ~~of its wireline local exchange affiliates in any jurisdiction,~~
30 ~~it shall be presumed that such is technically feasible in~~
31 ~~Illinois.~~

32 (b) Interconnection. ~~(1)~~ An incumbent local exchange
33 carrier shall provide for the facilities and equipment of any
34 requesting telecommunications carrier's interconnection with

1 the incumbent local exchange carrier's network on just,
2 reasonable, and nondiscriminatory rates, terms, and
3 conditions:

4 (1) ~~(A)~~ for the transmission and routing of local
5 exchange, and exchange access telecommunications services;

6 (2) ~~(B)~~ at any technically feasible point within the
7 incumbent local exchange carrier's network; however, the
8 incumbent local exchange carrier may not require the
9 requesting carrier to interconnect at more than one
10 technically feasible point within a LATA; and

11 (3) ~~(C)~~ that is at least equal in quality and
12 functionality to that provided by the incumbent local
13 exchange carrier to itself or to any subsidiary, affiliate,
14 or any other party to which the incumbent local exchange
15 carrier provides interconnection.

16 ~~(2) An incumbent local exchange carrier shall make~~
17 ~~available to any requesting telecommunications carrier, to~~
18 ~~the extent technically feasible, those services,~~
19 ~~facilities, or interconnection agreements or arrangements~~
20 ~~that the incumbent local exchange carrier or any of its~~
21 ~~incumbent local exchange subsidiaries or affiliates offers~~
22 ~~in another state under the terms and conditions, but not~~
23 ~~the stated rates, negotiated pursuant to Section 252 of the~~
24 ~~federal Telecommunications Act of 1996. Rates shall be~~
25 ~~established in accordance with the requirements of~~
26 ~~subsection (g) of this Section. An incumbent local exchange~~
27 ~~carrier shall also make available to any requesting~~
28 ~~telecommunications carrier, to the extent technically~~
29 ~~feasible, and subject to the unbundling provisions of~~
30 ~~Section 251(d)(2) of the federal Telecommunications Act of~~
31 ~~1996, those unbundled network element or interconnection~~
32 ~~agreements or arrangements that a local exchange carrier~~
33 ~~affiliate of the incumbent local exchange carrier obtains~~
34 ~~in another state from the incumbent local exchange carrier~~

1 ~~in that state, under the terms and conditions, but not the~~
2 ~~stated rates, obtained through negotiation, or through an~~
3 ~~arbitration initiated by the affiliate, pursuant to~~
4 ~~Section 252 of the federal Telecommunications Act of 1996.~~
5 ~~Rates shall be established in accordance with the~~
6 ~~requirements of subsection (g) of this Section.~~

7 (c) Collocation. An incumbent local exchange carrier shall
8 provide for physical or virtual collocation of any type of
9 equipment necessary for interconnection or access to network
10 elements at the premises of the incumbent local exchange
11 carrier on just, reasonable, and nondiscriminatory rates,
12 terms, and conditions. The equipment shall include, but is not
13 limited to, optical transmission equipment, multiplexers,
14 remote switching modules, and cross-connects between the
15 facilities or equipment of other collocated carriers. The
16 equipment shall also include microwave transmission facilities
17 on the exterior and interior of the incumbent local exchange
18 carrier's premises used for interconnection to, or for access
19 to network elements of, the incumbent local exchange carrier or
20 a collocated carrier, unless the incumbent local exchange
21 carrier demonstrates to the Commission that it is not practical
22 due to technical reasons or space limitations. An incumbent
23 local exchange carrier shall allow, and provide for, the most
24 reasonably direct and efficient cross-connects, that are
25 consistent with safety and network reliability standards,
26 between the facilities of collocated carriers. An incumbent
27 local exchange carrier shall also allow, and provide for, cross
28 connects between a noncollocated telecommunications carrier's
29 network elements platform, or a noncollocated
30 telecommunications carrier's transport facilities, and the
31 facilities of any collocated carrier, consistent with safety
32 and network reliability standards.

33 (d) Network elements. The incumbent local exchange carrier
34 shall provide to any requesting telecommunications carrier,

1 for the provision of an existing or a new telecommunications
2 service, nondiscriminatory access to network elements that are
3 required by the Federal Communications Commission to be made
4 available on an unbundled basis pursuant to Section 251(c)(3)
5 and 251(d)(2) of the federal Telecommunications Act of 1996 and
6 regulations promulgated thereunder or any amendments or
7 successors thereof, on an ~~any~~ unbundled ~~or bundled~~ basis, to
8 the extent that such network elements are required by the
9 Federal Communications Commission to be provided on an
10 unbundled basis pursuant to Section 251(c)(3) and 251(d)(2) of
11 that Act and regulations promulgated thereunder or any
12 amendments or successors thereof, as requested, at any
13 technically feasible point on just, reasonable, and
14 nondiscriminatory rates, terms, and conditions.

15 (1) An incumbent local exchange carrier shall provide
16 unbundled network elements in a manner that allows
17 requesting telecommunications carriers to combine those
18 network elements to provide a telecommunications service.

19 (2) An incumbent local exchange carrier shall not
20 separate any required network elements that are currently
21 combined with other required network elements, except at
22 the explicit direction of the requesting carrier.

23 (3) Upon request, an incumbent local exchange carrier
24 shall combine any sequence of required unbundled network
25 elements that it ordinarily combines for itself, ~~including~~
26 ~~but not limited to, unbundled network elements identified~~
27 ~~in The Draft of the Proposed Ameritech Illinois 271~~
28 ~~Amendment (I2A) found in Schedule SJA 4 attached to Exhibit~~
29 ~~3.1 filed by Illinois Bell Telephone Company on or about~~
30 ~~March 28, 2001 with the Illinois Commerce Commission under~~
31 ~~Illinois Commerce Commission Docket Number 00-0700.~~ The
32 Commission shall determine those unbundled network
33 elements the incumbent local exchange carrier ordinarily
34 combines for itself if there is a dispute between the

1 incumbent local exchange carrier and the requesting
2 telecommunications carrier under this subdivision of this
3 Section of this Act.

4 The incumbent local exchange carrier shall be entitled
5 to recover from the requesting telecommunications carrier
6 any just and reasonable special construction costs
7 incurred in combining such unbundled network elements (i)
8 if such costs are not already included in the established
9 price of providing the network elements, (ii) if the
10 incumbent local exchange carrier charges such costs to its
11 retail telecommunications end users, and (iii) if fully
12 disclosed in advance to the requesting telecommunications
13 carrier. The Commission shall determine whether the
14 incumbent local exchange carrier is entitled to any special
15 construction costs if there is a dispute between the
16 incumbent local exchange carrier and the requesting
17 telecommunications carrier under this subdivision of this
18 Section of this Act.

19 (4) A telecommunications carrier may use a network
20 element elements or combination of platform consisting
21 solely of combined network elements, to the extent that
22 such network elements are required by the Federal
23 Communications Commission to be made available on an
24 unbundled basis pursuant to Section 251(c)(3) and
25 251(d)(2) of the federal Telecommunications Act of 1996 and
26 regulations promulgated thereunder or any amendments or
27 successors thereof, of the incumbent local exchange
28 carrier to provide end to end telecommunications service
29 for the provision of existing and new local exchange,
30 interexchange that includes local, local toll, and
31 intraLATA toll, and exchange access telecommunications
32 services within the LATA directly to its local exchange end
33 users or payphone service providers ~~without the requesting~~
34 ~~telecommunications carrier's provision or use of any other~~

1 ~~facilities or functionalities.~~

2 (5) The Commission may ~~shall~~ establish maximum time
3 periods for the incumbent local exchange carrier's
4 provision of unbundled network elements, subject to the
5 provisions of subsection (g) of Section 13-712 to the
6 extent applicable. The maximum time period shall be no
7 longer than the time period for the incumbent local
8 exchange carrier's provision of comparable retail
9 telecommunications services utilizing those network
10 elements. The Commission may establish a maximum time
11 period for a particular network element that is shorter
12 than for a comparable retail telecommunications service
13 offered by the incumbent local exchange carrier if a
14 requesting telecommunications carrier establishes that it
15 shall perform other functions or activities after receipt
16 of the particular network element to provide
17 telecommunications services to end users. The burden of
18 proof for establishing a maximum time period for a
19 particular network element that is shorter than for a
20 comparable retail telecommunications service offered by
21 the incumbent local exchange carrier shall be on the
22 requesting telecommunications carrier. Notwithstanding any
23 other provision of this Article, unless and until the
24 Commission establishes by rule or order a different
25 specific maximum time interval, the maximum time intervals
26 shall not exceed 5 business days for the provision of
27 unbundled loops, both digital and analog, 10 business days
28 for the conditioning of unbundled loops or for existing
29 combinations of network elements for an end user that has
30 existing local exchange telecommunications service, and
31 one business day for the provision of the high frequency
32 portion of the loop (line-sharing) for at least 95% of the
33 requests of each requesting telecommunications carrier for
34 each month.

1 In measuring the incumbent local exchange carrier's
2 actual performance, the Commission shall ensure that
3 occurrences beyond the control of the incumbent local
4 exchange carrier that adversely affect the incumbent local
5 exchange carrier's performance are excluded when
6 determining actual performance levels. Such occurrences
7 shall be determined by the Commission, but at a minimum
8 must include work stoppage or other labor actions and acts
9 of war. Exclusions shall also be made for performance that
10 is governed by agreements approved by the Commission and
11 containing timeframes for the same or similar measures or
12 for when a requesting telecommunications carrier requests
13 a longer time interval.

14 ~~(6) When a telecommunications carrier requests a
15 network elements platform referred to in subdivision
16 (d) (4) of this Section, without the need for field work
17 outside of the central office, for an end user that has
18 existing local exchange telecommunications service
19 provided by an incumbent local exchange carrier, or by
20 another telecommunications carrier through the incumbent
21 local exchange carrier's network elements platform, unless
22 otherwise agreed by the telecommunications carriers, the
23 incumbent local exchange carrier shall provide the
24 requesting telecommunications carrier with the requested
25 network elements platform within 3 business days for at
26 least 95% of the requests for each requesting
27 telecommunications carrier for each month. A requesting
28 telecommunications carrier may order the network elements
29 platform as is for an end user that has such existing local
30 exchange service without changing any of the features
31 previously selected by the end user. The incumbent local
32 exchange carrier shall provide the requested network
33 elements platform without any disruption to the end user's
34 services.~~

1 ~~Absent a contrary agreement between the~~
2 ~~telecommunications carriers entered into after the~~
3 ~~effective date of this amendatory Act of the 92nd General~~
4 ~~Assembly, as of 12:01 a.m. on the third business day after~~
5 ~~placing the order for a network elements platform, the~~
6 ~~requesting telecommunications carrier shall be the~~
7 ~~presubscribed primary local exchange carrier for that end~~
8 ~~user line and shall be entitled to receive, or to direct~~
9 ~~the disposition of, all revenues for all services utilizing~~
10 ~~the network elements in the platform, unless it is~~
11 ~~established that the end user of the existing local~~
12 ~~exchange service did not authorize the requesting~~
13 ~~telecommunications carrier to make the request.~~

14 (6) (c) Operations support systems. Subject to the
15 provisions of subsection (g) of Section 13-712 to the
16 extent applicable, the ~~The~~ Commission may ~~shall~~ establish
17 minimum standards with just, reasonable, and
18 nondiscriminatory rates, terms, and conditions for the
19 preordering, ordering, provisioning, maintenance and
20 repair, and billing functions of the incumbent local
21 exchange carrier's operations support systems provided to
22 other telecommunications carriers.

23 (e) (f) Resale. An incumbent local exchange carrier shall
24 offer all retail telecommunications services, that the
25 incumbent local exchange carrier provides at retail to
26 subscribers who are not telecommunications carriers, within
27 the LATA, together with each applicable optional feature or
28 functionality, subject to resale at wholesale rates without
29 imposing any unreasonable or discriminatory conditions or
30 limitations. Wholesale rates shall be based on the retail rates
31 charged to end users for the telecommunications service
32 requested, excluding the portion thereof attributable to any
33 marketing, billing, collection, and other costs avoided by the
34 local exchange carrier. The Commission may determine under

1 Article IX of this Act that certain noncompetitive services,
2 together with each applicable optional feature or
3 functionality, that are offered to residence customers under
4 different rates, charges, terms, or conditions than to other
5 customers should not be subject to resale under the rates,
6 charges, terms, or conditions available only to residence
7 customers.

8 (f) ~~(g)~~ Cost based rates. Interconnection, collocation,
9 and network elements, and operations support systems to the
10 extent required by the Federal Communications Commission to be
11 made available pursuant to Section 251(c) of the federal
12 Telecommunications Act of 1996 and regulations promulgated
13 thereunder or any amendments or successors thereof, shall be
14 provided by the incumbent local exchange carrier to requesting
15 telecommunications carriers at cost based rates consistent
16 with Section 252 of such Act and regulations promulgated
17 thereunder or any amendments or successors thereof. The
18 immediate implementation and provisioning of interconnection,
19 collocation, network elements, and operations support systems
20 shall not be delayed due to any lack of determination by the
21 Commission as to the cost based rates. When cost based rates
22 have not been established, within 30 days after the filing of a
23 petition for the setting of interim rates, or after the
24 Commission's own motion, the Commission shall provide for
25 interim rates that shall remain in full force and effect until
26 the cost based rate determination is made, or the interim rate
27 is modified, by the Commission.

28 (g) ~~(h)~~ Rural exemption. This Section does not apply to
29 certain rural telephone companies as described in 47 U.S.C.
30 251(f).

31 ~~(i) Schedule of rates. A telecommunications carrier may~~
32 ~~request the incumbent local exchange carrier to provide a~~
33 ~~schedule of rates listing each of the rate elements of the~~
34 ~~incumbent local exchange carrier that pertains to a proposed~~

1 ~~order identified by the requesting telecommunications carrier~~
2 ~~for any of the matters covered in this Section. The incumbent~~
3 ~~local exchange carrier shall deliver the requested schedule of~~
4 ~~rates to the requesting telecommunications carrier within 2~~
5 ~~business days for 95% of the requests for each requesting~~
6 ~~carrier~~

7 (h) ~~(j)~~ Special access circuits. Nothing other than as
8 ~~provided in subdivision (d)(4) of this Section for the network~~
9 ~~elements platform described in that subdivision, nothing in~~
10 ~~this Section amendatory Act of the 92nd General Assembly is~~
11 ~~intended to require or prohibit the substitution of switched or~~
12 ~~special access or private line services by or with a~~
13 ~~combination of network elements nor address the Illinois~~
14 ~~Commerce Commission's jurisdiction or authority in this area.~~

15 (i) ~~(k)~~ The Commission shall determine any matters in
16 dispute between the incumbent local exchange carrier and the
17 requesting carrier pursuant to Section 13-515 of this Act.

18 (Source: P.A. 92-22, eff. 6-30-01.)

19 (220 ILCS 5/13-804 new)

20 Sec. 13-804. Access services.

21 (a) All telecommunications carriers providing intrastate
22 switched access service shall mirror their interstate rates as
23 found to be just and reasonable under the orders and
24 regulations of the Federal Communications Commission within 30
25 days of the effective date of this Amendatory Act of the 94th
26 General Assembly or within one day of the effective date of any
27 new FCC orders and regulations issued after that date. This
28 Section shall not apply to incumbent local exchange carriers
29 not subject to the competition-opening provisions of Section
30 251(c) of the federal Telecommunications Act of 1996 and any
31 successors or amendments thereof.

32 (b) Nothing in subsection (a) of this Section prohibits a
33 telecommunications carrier from electing to offer intrastate

1 switched access service at rates lower than its interstate
2 rates.

3 (220 ILCS 5/13-1200)

4 (Section scheduled to be repealed on July 1, 2005)

5 Sec. 13-1200. Repealer. This Article is repealed July 1,
6 2008 ~~2005~~.

7 (Source: P.A. 92-22, eff. 6-30-01.)

8 (220 ILCS 5/13-402.1 rep.)

9 (220 ILCS 5/13-408 rep.)

10 (220 ILCS 5/13-409 rep.)

11 (220 ILCS 5/13-502.5 rep.)

12 (220 ILCS 5/13-503 rep.)

13 (220 ILCS 5/13-505.3 rep.)

14 (220 ILCS 5/13-505.4 rep.)

15 (220 ILCS 5/13-505.5 rep.)

16 (220 ILCS 5/13-505.6 rep.)

17 (220 ILCS 5/13-505.7 rep.)

18 (220 ILCS 5/13-508 rep.)

19 (220 ILCS 5/13-508.1 rep.)

20 (220 ILCS 5/13-518 rep.)

21 (220 ILCS 5/13-802 rep.)

22 Section 10. The Public Utilities Act is amended by
23 repealing Sections 13-402.1, 13-408, 13-409, 13-502.5, 13-503,
24 13-505.3, 13-505.4, 13-505.5, 13-505.6, 13-505.7, 13-508,
25 13-508.1, 13-518, and 13-802.

26 Section 99. Effective date. This Act takes effect upon
27 becoming law."